

## City Council Regular Meeting Transcript – 04/16/2015

Title: ATXN 24/7 Recording

Channel: 6 - ATXN

Recorded On: 4/16/2015 6:00:00 AM

Original Air Date: 4/16/2015

Transcript Generated by SnapStream

=====

[10:14:20 AM]

>> Mayor Adler: Morning. I am mayor Steve Adler. We're going to begin today with an invocation from reverend Tom Mitchell, St. Andrew's presbyterian church. Please rise.

>> Mr. Mayor, ladies and gentlemen, I come today to offer you a blessing that celebrates my native American heritage. May the warm winds of the spirit blow softly upon your house. May the great spirit bless all who enter there. May your moccasins make happy tracks. And may the rainbow always touch your shoulder.

(Foreign words). Which translates to all above me, below me and around me, all of my relations. Thank you.

>> Mayor Adler: Thank you, sir. I want to welcome Adrian Farrell to chambers here this morning. And I am so pleased to be able to officially welcome you as the Irish consul general as well as a new era of close cooperation. It's very exciting. Mr. Ferrell was appointed as Ireland's consul general in August in Austin, in September of 2014. And the consulate is Ireland's first in Texas.

[10:16:20 AM]

And in the United States southwest. This is the first consulate, the new consulate that has just opened in Austin. The first international consulate to open in Austin since Mexico opened theirs, I understand, in the 1800's. This is proof, further proof that Austin is truly becoming an international city. And while we hope that other countries follow Ireland's lead in this regard, we will always remember that you were first in what I hope will be a new wave. Our friends in Ireland have invested in establishing a presence in our city because of our shared interest in developing a strong economy and building a stronger trade relationship. There's a lot of similarities between Austin, Texas and Ireland and the people of both. There is an innovative spirit that Austin shares with Ireland. Ireland is leading the way in technology and promoting start-ups and mid-sized businesses and creating a real gateway for united States technology companies in Europe. We are honored today to be joined by consulate general, who has a very long and distinguished career as a diplomat. Consul general, please come and visit.

[Applause].

>> Mayor, thank you so much. Mayor and councils and --

>> Mayor Adler: If you could pull the microphone to you a little better, people in the back can't hear you.

>> I'm pleased to be appointed Ireland's first consul general to Austin.

[10:18:21 AM]

I think the reverend has out done me by speaking a different language, but.  
(Speaking foreign language). That's Irish for I'm delighted to address the city council this morning and I'd like to thank you very, very much to all the city council for this great opportunity. I would also like to express my gratitude to mayor Adler this morning for meeting with me and my team earlier this year and to his predecessors for their supports with the establishment of the new consulate. I'm also particularly grateful to mayor pro tem tovo who joined with the Irish prime minister in cutting the ribbon on our new consulate premises, I think almost exactly a month ago today, and for presenting the prime minister with a key to the city. And last, but certainly not least, I would like to thank the city manager, Marc Ott and all his staff, the international office for their engagement and support. Certainly we've been very warmly welcomed to Austin and it's made a great difference to our arrival here. As you mentioned, mayor, I arrived in Austin last September to establish a new consulate and I followed the election campaign for the new 21 council with great interest. I was delighted to meet with many of you after your inauguration last January and I very much look forward to working with you in the future. The opening of the new consulate in Texas is historic for both Ireland and Austin. The new office is only the sixth consulate in the U.S. After New York, Boston, San Francisco, Atlanta and our embassy in D.C. And Austin will serve as Ireland's relations in not only Austin, but Texas, and our new section at sixth and congress. Ireland do not open consulates often. This is only the second in over 70 years. Our new official presence in Austin is the first dip lotmatic by a European state and the first since the frenchlygation closed its doors in the mid 19th century. I hope we stay here longer than that. Our investment here in Austin demonstrates the commitment and value that we attach to the city and its people and to the development of closer relations and the city council is really central to this new era.

[10:20:32 AM]

Ireland chose to establish its new consulate to Texas and the southwest in Austin based on a number of factors, but the main reason as the mayor mentioned is that we believe that Austin is a great potential partner for Ireland and their cooperation in the future. As mayor Adler outlined in a state of the city address last Monday evening, Austin is also a growing city, bursting with opportunity and potential. We want to be part of this. One of the major objectives of my presence here in Austin therefore will be to strengthen trade and economic ties with Austin, central Texas. Ireland knows Austin well. We're one of the first international participants to engage in south by southwest and many tech and I.T. Companies have presences here and also in Ireland. Like Austin Ireland's economy is growing fast. In 2014 the growth rate at 4.8% was the highest of all the 28 eo member states and we're likely to keep this in 2015 as well. With a small population, Ireland's economy is built on a strong export sector. Last year Texas imported 1.3 billion dollars' worth of imports from Ireland, mostly pharmaceuticals, medical equipment, and Austin accounted for a healthy proportion of this. Texas exported about 400 million dollars' worth of goods to Ireland in 2014, but that was a massive increase of 33% on the 2013 figures. So trade levels between Ireland and Texas are good, but there's plenty of space for further growth. And this is why two Irish state agencies will join the consulate in Ireland house, enterprise Ireland is the first and it will seek opportunities for Ireland in Texas including to creating jobs here. And Ida Ireland will promote a location in Europe for Austin and texan companies. Ireland is one of the fastest growing manufacturing sectors in the world with growth in I.T., semi conductors, chemicals, medical technologies, and more Mo traditional exports of food and drink. And Ireland attracts strong investment.

[10:22:32 AM]

In gdp terms Ireland is still one of the world's major recipients of foreign direct investment. When business comes to Ireland for not just its educated workforce, but also for its track record in securing returns for investors, quality of life, good infrastructure and its competitive business tax rates. There are many similarities with Austin here. Ireland is also a member of the European union and the euro zone and it's an English speaking gateway to the market of 27 other countries and five hundred million consumers. Dublin is increasing and becoming like Austin a hub, a European hub in our case for social media, tech start-ups and notification and its annual web start-ups. Ireland has one of the youngest populations in Europe. Although in Irish cities may dispute Austin's claim to be the live music capital of the live and I won't get into that here, but I think we have plenty of opportunity for cultural engagement into the future as well. It's no accident that we're the only country in the world whose state symbol is a musical instrument. I'm delighted that last week one of the many future initiatives was announced between the Austin capital factory and another in Ireland. We have a great deal to learn from each other. I appreciate the engagement that we've had we're with the chamber, the city's economic development office and with the many universities and educational universities here. Irish businesses are increasingly seeing the value of increasing in Austin, of creating employment here and of using Austin as a base for regional expansion to the U.S. And also the Mexican markets. One of our priorities will be to encourage more business in Austin and Travis county, given how closely the business environment here mirrors Ireland's and the great potential for growth here. Weless want to get more austinites traveling to each other's cities and states. My mandate here goes well beyond trade and economic issue. As a diplomat representing Ireland, I'm to promote more engagement between Ireland and Austin, including at a political level, but especially between our two peims.

[10:24:38 AM]

I mentioned that we were one of the earlier participants in south by southwest. Irish musicians are frequent performers at acl and other events in Austin. We will develop a number of initial temperatures in art and literature, including with partners like the U.S. Ransom center for new audiences here in Austin. As consul one of my goals is that we're an active part of community and civic life here in Austin and I would greatly value your assistance in this regard with linking me with the citizens that you represent in your districts. One of the most interesting parts of my work which I've lived in my previous posters in Germany and Turkey is meeting people, which gives me an opportunity to talk about Ireland and Irish life, but to talk to citizens about their lives and I look forward to doing the same here in Austin. Ireland places a very high value on education and training and most of our economic success and its future is dependent on this. As a diplomat, but as a former high school teacher, I would be delighted to meet with community groups and visit with schools, colleges and libraries in your districts to talk about Ireland and our new relationship with Austin. I look forward also to opening the doors of the consulate to austinites from all parts of the city and giving them a flavor of Ireland from our new offices overlooking downtown Austin. The Irish consulate in Austin is a resource open to you and all the citizens of the city and we look forward to welcoming you there. Of my other tasks as consul is to engage the Irish communities in Austin and across Texas and the U.S. Southwest. As in some of you know the Irish have been in Austin since its foundation and have contributed to the development of the city and its identity through building both physical infrastructure and the social fabric and heart of the city through the establishment of schools, universities across Austin, but in other parts of Texas. Austin's new Irish community is growing fast. More and more Irish people are settling in Austin, working for tech companies that have offices on both sides of the atlantic, but also creating businesses here. The Irish in Austin live in all our districts. As you know, Ireland has its own language which I spoke earlier and centuries old sports that aren't played anywhere else in the world, including our national game of hurling.

[10:26:44 AM]

And recognizing Ireland's new relationship with Austin, the players from our hurling league have booked Austin as a host city in the U.S. To come and play next December, one of the major international games. A visit by the ga all stars game will bring many visitors to Austin and the team is working closely with the Austin sports commission in this regard. Ireland sports and cultural heritage are unique, but completely open and inclusive. The celtic cowboys team here in Austin are attracting austinites that are not Irish, but are just enjoy be Irish sports, but are fun and a great way to engage people in the community. The club also engage in community and charity work. The club symbolizes how the Irish community is engaging here in its new home of Austin, inclusive, friendly and giving back to the community. I'm grateful for the support the city's parks and recreation department is working for a permanent location for its difficulties. So I will -- activities. So I will be honored to return the welcome and hospitality that I have received from the city of Austin and the council by inviting you to the consulate in the very near future and I would also be pleased to engage with the city council committees on more specific issues whenever you wish. Over the more median term we would be delighted to welcome a delegation from Austin city council to Ireland to promote your wonderful and great city in Ireland and to assess areas of the Irish economy that may be of more specific interest to Austin, including our large medical technology sector and our financial services sectors also. But also perhaps more importantly, also to give you an opportunity as counselors to engage with your counterparts in Dublin or other cities and discuss some of the common challenges and opportunities that you face in serving citizens and communities. A Dell immigration representing community leaders and communities from Dallas will visit in two weeks time and we would be pleased with a similar initiative from the city of Austin. I'm also working to propose a sister city in Ireland and Austin in the near future. I'm very excited about that.

[10:28:47 AM]

To conclude Austin has a very exciting future and we lookward to ING a part of it. Nonprofit [speaking foreign language].

>> So again, just to translate, I think that the machine is going crazy up there.

[Laughter] I look forward -- I look forward to working very, very closely with you to build on our shared history and to bring our communities closer together. Thank you very, very much. Thank you.

[Applause].

>> Mayor Adler: Consul general, thank you again so much. It's wonderful to have you here. I have personally enjoyed all the conversations we have and I hope and trust that we'll have many more. I am particularly taken by your offer to go visit schools and organizations, to join councilmembers in their district with the district meetings that they have, and I hope that we take you up on that offer.

Councilmember Zimmerman.

>> Zimmerman: Thank you, Mr. Ferrell. Quick question for you. Decades ago I spent time in an aluminum plant, so of course the engineers took me to dirty Nelly's. So a request, can you put some extra signs up when you leave the pub so we don't turn the wrong way? That scared the heck out of me back then.

[Laughter].

>> I'll pass that on.

>> Mayor Adler: Councilmember Houston.

>> Houston: Consul general, thank you so much for sharing all those words. Out of all the things that you said about the sameness of Austin and Dublin, I want you to know that the most important thing to me was the curling. I watch it all the time on TV and I don't have a clue what it does or how it works. So I

was so excited to hear that we will have some official curling.

>> Maybe you can throw in the ball.

>> I wish I knew how to do that. It's a sweep.

[10:30:47 AM]

I want to be a sweeper. Thank you.

>> Thank you, thank you.

>> Mayor Adler: Consul general, thank you so much.

>> Thank you so much and all the best. Thank you.

>> Mayor Adler: A quorum is present so I will call this meeting of the Austin city council to order today. It is April 16th, 2015. We're meeting in the council chambers, Austin city hall, 301 west second, Austin, Texas. The time is 10:30. Before we begin the meeting I'm going to read into the record the changes and corrections. Item number 26 should be identified as being in district 10 and not district 7, the involved property. We have certain time certain agenda items. We have the consent agenda at 10, the zoning cases at 10, and also item number 29 all set for 10:00. I'll probably take those in the order of item number 29 first, then the consent agenda and then the zoning agenda, unless there's objection or concern. 12:00 is citizen communication, 1:00 is public hearings. We have items that have been pulled off of the consent agenda. % item 2 and 3 have been pulled. Item number 5 is something that will be withdrawn and I will recognize councilmember Casar in a moment to explain that. Also pulled by speakers are items number 7 and number 8. So that would then indicate that the pulled items all together -- pulled items altogether are 1, 4 and 6 -- no, I'm sorry.

[10:33:04 AM]

2, 3, 7 and 8.

>> Zimmerman: Mr. Mayor, I believe there's somebody to speak on item 4.

>> Mayor Adler: There's one person to speak on item 3, 4 and 6 so they will get a chance to speak on the consent agenda since there's just one speaker. That doesn't pull the item. In order for the item to be pulled there needs to be two speakers signed up and only two speakers have signed up on Numbers seven and number eight. Is that right? So the consent agenda consists of 1, 4 and 6, I think. Continuing on with the items we also have late backup on, items 2, 3, 4, item #, item 10, item 11, item 12, item 13, 14, 15, 16, 17, 20, 21, 22, 23, 24, 25, 26, 27 and 28. Before we entertain a motion to approve the consent agenda, we have some speakers here to speak on the consent agenda. The first one of those speakers is Paul asendio.

>> Tovo: Mayor?

>> Mayor Adler: Was this pulled? I'm sorry, item number 3 was pulled. My apologies. All right. So there was no speaker on item number 1. Item number 4 then, the speaker is areth 16 pandu.

[10:35:14 AM]

You have three minutes.

>> Thank you, Mr. Mayor and councilmembers. I simply wanted to come and introduce myself. The first time I had ever spoken before any city council was in January when you held a public engagement meeting. And I'm thrilled I was considered for the historic commission. The first meeting I had ever been to at my life in was in November. And I'm extremely interested in trans parent si issues. I'm on the freedom foundation of Texas. And there's a bluebonnet hills historic district being debated in our neighborhood. Sadly it's having to return to the third time for the commission. Not because anyone

noticed that the rules that are there to protect anyone's interest are not being followed, but a homeowner had to force people to pay attention to those rules and follow them. That's the expert it tease I bring. The I like the old neighborhood I live in. I like Austin. I volunteer in different arts organizations. My hope is that we return a balance where we view what all the commissions do, including historic commission, in a way that engage as many people as possible, which is the charge that y'all had laid out when you first opened up council. So I'm excited. I think I will learn a lot and I hope folks will learn from me. I'm happy to answer any questions.

>> Mayor Adler: Any questions?

>> Zimmerman: Thank you, and you're an attorney by profession?

>> That's right. I practice constitutional law at the institute for justice. Most of my cases are economic liberty cases or property rights cases. The biggest case we ever did was actually we've been to the U.S. Supreme court several times. We've only lost once, but the case we lost was on behalf of several homeowners in Connecticut who were trying to fight the abuse of eminent domain. People were trying to bulldoze their homes and hand it over to a builder for a development for pfizer corp. And we lost. It said public views can provide redevelopment and private gain.

[10:37:17 AM]

We were very discouraged, but we led the charge across the country for change in emanant domain laws. We've saved tens of thousands of homes from being taken for no other good reason than because some folks wanted to redevelop them into something else. Send a lot about property rights in -- learned a lot about property right in that case and get homeowners engaged in the process. I think no one likes to see that happen. And good thing in Texas, that can't happen anymore. There's a constitutional amendment that says public use means public use, not private redevelopment. You can't take it from private hands and hand it to another set of hands.

>> Zimmerman: Thank you very much.

>> And I look forward to chatting with the rest of you. I met some of you in January.

>> Tovo: Mayor, I do have some questions. I'm looking over the charge for the historic landmark commission, one of which is -- the first is to promote historic preservation activities in Austin. Can you give me a sense of how you feel you will promote historic activities in Austin and particularly given the concerns you've expressed about local historic districts, that is a policy initiative acted -- that has been enacted by the Austin city council. How will you if appointed today promote local historic districts throughout Austin?

>> I think by educating folks that if you want to encumber your own property and have an historic designation on it that it needs to be taken seriously. I understand the responsibilities of that. There's nothing wrong with be seeking a designation on your own property if it's historic. Or early in principle trying to get an historic district passed. I think where I have a problem with bluebonnet hills if you have 40% of the neighborhood trying to force the other 60 percent who don't want it, that's not good policy.

[10:39:18 AM]

It's because there's a lack of consensus, which means in formulating what they were trying to do you didn't engage or weren't transparent enough with anyone else. If you have a consensus, and I would urge folks who come before the commission, have real trans apparent si. And I will also ask the city to city what is really being done to their homes ahead of time before you really calculate the support.

>> Tovo: So if I could stop you just there. I don't want to talk about the specifics of a case in which you've been involved and actively opposing, but I do want to talk about local historic districts. The local that the city council has adopted allows for an application to move forward if there's 51%. That's the

policy that's been enacted by council and will stand in place until changed. Is that something as a commissioner that you would be able to consider objectively, a local historic district designation that came forward?

>> Yes, that's what the city code says. The city code also says that homeowners must have proper notice. I got a flow chart sadly that showed from this flow chart that the homeowner notice is 10 days. Not only is that not 11 days as required by law, but if you know that this is coming down the pike, there's nothing holding back anyone at the city from giving two weeks' notice or three weeks' notice. I would like to have more transparency because if you give more notice to folks you get more engagement and that's been an issue that's really permeated the entire process in our neighborhood, without going into the messy details.

>> Tovo: So back to my original question. How will you promote historic preservations in Austin?

>> How would I promote it? I would encourage folks to come to the meetings and see how it operates. The nuts and bolts. If I think you go to a meeting and see how it operates, it informs your decision with respect to the type of time and effort you want to put into preserving the history and character of your home or neighborhood. It is a lot of work. Frankly I had to do it through the last trimester of my wife's baby and the first six weeks of his life.

[10:41:24 AM]

It's been a lot of work to bring transparency to the process. Our case is going basketball the historic landmark commission for the third time. I shouldn't be the one to make them follow the rules. That's in the code 51%. That's the rule. And I will make sure that all the other rules that protect notice and transparency are also enforced equally.

>> Tovo: Okay. I have more questions for you, but I'll leave that there.

>> I'm happy to talk to you offlines. Tovo I'm familiar with the case and your involvement in it.

>> Mayor Adler: Councilmember Houston.

>> Houston: Thank you so much for coming here today. We're talking about historic preservation of culturally sensitive areas. So the question is again how will you help promote those? As you know because of some of the policies that were enacted long before any of us were on this dais, many parts of east Austin, ethnic, historically culturally sensitive districts, have been mowed down, so we weren't able to preserve that history, that heritage, that cultural sensitivity. That's the question I think we're trying to get is how will you help people not go through the process, help them understand and help them preserve those kinds of districts that they think are special? You may not think they're special, but they think they're special and need to be preserved. I think that's the question we're asking.

>> I think there are two parts to that answer. I think the first part of the answer is if you look at the notices that go out, they're extremely vague. I think from an initial standpoint, homeowners don't even know what's going to happen to their homes or they will have an opportunity to try to engage in some sort of preservation. They're very vague. They don't tell you much. They have a web link on a piece of paper and they're sent out to meet the very minimum requirement. I would encourage folks in the preservation office to maybe engage engage in more education and transparency ahead of things happening.

[10:43:28 AM]

Usually we get a notice saying there's an application for permit for demolition. We don't know what it looks like. Even a page of extra information would be helpful. The second part of that answer is I think the historic landmark commission presents a unique platform for telling people about Austin's story and about the great examples of success throughout the city. That have resulted because of a lot of hard

work. I think all too often folks have used this platform as kind of like the mechinations and procedural process for getting things through. But it has another potential to advocate in the court of public opinion, the benefits of preservation on the merits. I think there's a lot to be said about persuasion as opposed to coercion. And coercion is getting a notice and flying through the process, getting the stamps of approval and flying through it. Even before it there's a great opportunity for the commission to engage since it has the platform in education and the marketplace of ideas and talking about how preservation has worked and succeeded on the merits of preservation. , On history. On how it can benefit folks. I think you will actually end up with more preservation by folks simply advocating and persuading people, voluntary preservation in different communities around. And as opposed to only relying on the city to preserve. I think we can do a lot more.

>> Mayor Adler: Thank you. Ms. Pool?

>> Pool: Mr. Panju, I wanted to correct one item that may have been misleading. The original petition did include 51% of the neighbors in the bluebonnet hill district. So the fact that it was up for designation indicates that they did indeed have a valid petition. You were saying that only 40% of the neighbors supported it, but it was in fact originally 51%.

>> You're absolutely correct. And the council --

[10:45:28 AM]

>> Pool: Was it 58%.

>> Mayor Adler: I wanted you to be able to respond, but this is not the time for us to talk about that case.

>> Pool: I did have one other question. One of the other responsibilities of the human being is to review appropriateness and applications for city landmarks. Do you feel like you would be able to do that objectively and in full support of the city's policies and the direction the city wishes to move with regard to preserving our cultural heritage?

>> I think they have to be reviewed objectively and they have to take the input from folks that are materially affected by it. I think the city does -- has experts that can weigh in and give their subjective opinion on appearance and esthetics, but I will make sure that the rules are followed. And if the rules are there and they're straightforward and clear and there's clarity, I think you will have better process and better outcomes. 75% of the certificates of appropriateness are going through the historic landmark commission. You have to wait a month and pay \$500 to get them. I think more should be approved administratively because at the end of the day the rules are already there. And if they're followed, surely staff with check the boxes and say yeah, this meets the rules. Instead of making folks wait a month and pay \$500 if they want to add something to the back of their house. Because they're already getting all the other approvals before that. And this is more of an esthetic kind of rubber stamp at the end.

>> Mayor Adler: Any further comments? Thank you very much.

>> Thank you.

>> Mayor Adler: I'm going to read into the record, which I should have done earlier, the board nominees that are being considered as part of the consent item number 4. African-American resource advisory commission, Dr. Chitika Eugene, nominated by councilmember kitchen.

[10:47:31 AM]

Matt Stillwell for the arts commission, nominated by councilmember Zimmerman. Angela Medina nominated by councilmember Garza to the commission on immigrant affairs. Jenny breeze Meister, commission of seniors by councilmember kitchen. Leticia Thigpen. Mary gay maxwell, environmental commission nominated by mayor pro tem tovo. The historic landmark commission, Aretha panju,



councilmember Zimmerman. Regina Adams nominated by councilmember Houston. And aikia [indiscernible], music commission, nominated by mayor pro tem tovo. Nobob Taylor for the taskforce on community engagement by councilmember kitchen. And the waiver was to approve a waiver on the attendance requirements in section 2-1-26 of the city code for the service of Shiller Lao on the mwbe program advisory committee, the waiver includes absences through today's date. Also speaking on the consent agenda is Paul Robbins.

>> Good morning. Gas utilities in Texas can get an annual short-term increase for infrastructure upgrades without the scrutiny of a full rate case. This is known as gas reliability infrastructure program or grip. While I understand the rationale, whoever came up with this acronym needs a refresher course in public relations.

[10:49:41 AM]

However legitimate, austinites are themselves gripped with their high cost of living. Every year the city hires a consultant to review the legitimacy of the Texas gas service grip request. This year I am asking that the consultant review three additional things. First, some of the increase probably involves service expansions and repairs outside of Austin city limits. An analysis needs to be done to determine what percentage of the increase is due to outside expansion and deduct this from Austin's increase. During the last year's interim increase the city's consultant told me that the costs outside of Austin were significant. Second, we need to determine if new hookups inside and outside the city are getting the full cost back through hookup fees. This would be akin to the city's capital recovery fees for utilities, water and wastewater. Austin has gone to 100% cost recovery for these three utilities that it owns. We should do the same for gas. Finally, we need to determine the number of years the gas main upgrades will continue to be needed. Texas gas service has made a good decision to replace metal mains with more leak-resistant polyethylene mains, which is something Austin should consider for its water and wastewater utilities. Plastic mains are safer for gas transmission, but when does the upgrade finally end? And when will this cost be removed from further rate increases? I hope you will insert these three things into the consultant's scope of work.

[10:51:45 AM]

Thanks for your attention.

>> Mayor Adler: Mr. Robbins, thank you. Would you email those comments to the council?

>> Yes.

>> Mayor Adler: Thank you. Those were all the public comments we have. Is there any discussion on the consent agenda? In fact, first, is there a motion to approve? Mr. Zip. Is there a second? Mr. Casar. Ms. Tovo?

>> Tovo: I need some clarification on what the items are on the consent.

>> 1, 4 and 6.

>> Tovo: Thanks for that clarification. I just wanted to register my vote in opposition to Mr. Panju's nomination. I appreciate you being here and answering our questions, but I still do have concerns about your ability to support what I see as the key mission of the historic landmark commission based on communications I've heard from my constituents. So thank you for your interest. That's how I'm voting today.

>> Pool: I'd like to also register my opposition to Mr. Panju for the historic landmark commission for the same reasons that mayor pro tem has listed. And I've also been contacted by people who are deeply involved in the work of the historic landmark commission and they are requesting that we reject that nomination.

>> Mayor Adler: Okay. Ms. Garza?

>> Garza:, I regret that it's come to this. This is the one area that I really felt we could defer to councilmembers, but -- I want to thank those of -- of councilmember Zimmerman's appointments that have decided to step up and serve the city, but because of a previous appointment that I believe is not going to be an issue anymore by somebody who made some extremely offensive and intolerant comments, I need to register an abstention to all of councilmember Zimmerman's appointments.

>> Mayor Adler: Okay. Anything further?

[10:53:45 AM]

>> Casar:, Mr. Mayor, is now an appropriate time to discuss item number 5 or after?

>> Mayor Adler: I think after. There's been a second to -- we've previously had the second. Further discussion? Is there further discussion? Ms. Houston?

>> Houston: Thank you. And I certainly appreciate my colleague K councilmember Zimmerman's desire to have people who represent some of the folks in his district on various boards and commissions. To me it's about the sensitivity to understand that historic preservation in some parts of town has not been taken seriously. It's not about a process, it's about the soul and the ability to connect with that need for preservation in areas that are fast becoming extinct. So because of that I will abstain from that nomination.

>> Mayor Adler: Thank you. Yes, Ms. Kitchen.

>> Kitchen: I would like to just state my abstention from that appointment also that we're discussing for the same reasons that councilmember Houston set forth. I think it's very important to look at historic preservation in a way that maybe has not traditionally been looked at. Thank you.

>> Mayor Adler: Okay. All those in favor of the consent agenda please raise your hand, with abstentions that were noted. One, two, three, four, five, six, seven, eight -- it's unanimous on the dais the abstentions we had were one, two, three and four. So the consent -- five. The consent agenda passed. I think that -- I'll state parenthetically -- why don't you talk, since we're in that subject right now, about item number 5, which you're withdrawing.

[10:55:53 AM]

Why don't you talk to that.

>> Casar: Certainly. Thanks for letting me have some brief comments on item number 5. Item number 5 was the resolution to rescind the appointment we made last council meeting for the commission on immigrant affairs. Last night, after city hall closed, the city clerk's office alerted me that Ms. Forest had sent in a letter effectively stepping down from the commission on immigrant affairs. And so the purpose of item number 5 has been accomplished, so I just wanted to briefly thank the council for being so supportive of the resolution. Mr. Zimmerman and I did have a respectful conversation about this before we came to this point, but we chose to respectfully disagree. And since then he stated that if we got to know the former appointee we might change our minds, but honestly in the last few days the more I've heard, the more shocked and honestly disgusted I've been by the comments she made and the comments about hispanic legislators were just the tip of the iceberg. Her comments that came out recently were discrimination against minority communities which we find unacceptable I think here in Austin. I feel no need to rehash some of those comments. I expect that the media will handle that, but I and my co-sponsors I think are ready to move on from this item. There's no need to vote on it since she's no longer on the commission. But we'll certainly continue to fight for Austin's values of inclusion and respect for all our people. Thanks.

>> Mayor Adler: So item number 5 is withdrawn. I would say just parent thetically about that, I apologize

for missing the council's discussion on this issue at the work session on Tuesday since I was testifying at the capitol on the Austin energy deregulation bill. In so many things that we do as the first 10-1 council, we're going to set the custom and the practice going forward.

[10:58:02 AM]

And what we do, we really need to think about not just in terms of this council, but in terms of the councils that follow us. There have been several of the nominations that have been called into question, each for different reasons. At least one of them I would vote against as well, given the nature of the evidence that was presented. And I do believe that the council has a responsibility to approve or disprove or else there wouldn't be a vote that comes back to the council. But I do want us to try and figure out -- and maybe there's a way for us to figure out how we are articulate what the bar is so that we're not trying to articulate that bar on every case because my fear is if that's how we do it, if we do it in an ad hoc nature like that, the pressure to apply it in difficult cases where maybe it shouldn't be applied may be overwhelming. So we're going move past this. It was handled on consent, but I do hope that we figure out a forum or a way to articulate that amongst ourselves. The issue is incredibly significant for us, not only the present controversies or issues, but in terms of the practice and culture that we're setting for us later and for councils that follow us.

>> Casar: Mr. Mayor, I would just set the standard at least on item number 5 that I think we are setting the right precedent that if you are to make big gotted remarks, you gill have got your right to free speech, but you won't be appointed to the board or commission by the Austin city council.

>> Mayor Adler: Ms. Houston?

>> Houston: And mayor, you weren't here. I talked about the core value sheet that I have and have a conversation with all that are appointed to any board or commission.

[11:00:07 AM]

And my assurance is if they violate any of these core values then I will remove them myself. And the most important one is civility, equity, unity, cooperation and inclusiveness. And that we've got do this in collaboration with one another and not be divisive. Those are the conversations I have with the people that I appoint.

>> Mayor Adler: I appreciate you giving me a copy of those rules and the promise to give me in electronic version so we can tailor them to our appointments as well. Ms. Pool?

>> Pool: I would like to say to the particular nominee that we saw this morning, I hope Mr. Panju will see that as a challenge and prove us work. I hope you will be a valuable member in positive ways on the historic landmark commission.

>> Mayor Adler: I would note that we have in our current ordinances the rules of order in respect of decorum and service on boards and commissions and reserve the right by ordinance to replace someone. Maybe we look at that section 2-1-48 to increase our to enlarge or to expand upon the standards that we would otherwise be applying. We're going to go ahead and -- I'm sorry. Mr. Zimmerman?

>> Zimmerman: Thank you, Mr. Mayor. I want to point out on on the Austin council forum.org, our council message board, there was a letter, the response, the resignation from Ms. Forest is on the council message board. At the end of the thread that councilmember Casar started. So that's copied there with a link. The second thing I want to tell my colleagues I appreciate all the civil discussion and I don't think that I'm being overscrutinized. I welcome the scrutiny on the nominations. I appreciate that. But I think everyone would -- is now maybe more open to scrutiny, which I hope is fine with everyone here. As long as we all play by the same rules, I think it's fine, there are no problems.

[11:02:07 AM]

Thank you guys for how you handled it and I think this discussion points out what the mayor has been saying. We want to do things new, we have more diverse points of view. We appreciate hearing this out.

>> Mayor Adler: Okay. The next item we will move to also set at 10:00 time certain is item number 29.

>> Jerry rusthoven with the planning and zoning department. Item 29 is to conduct a public hearing and consider an ordinance related to adult oriented businesses. In February of this year the city council passed a resolution directing staff staff for these amendments. There are two main amendments. One two amend section 25-2-081. To provide that in the central Texas business district and downtown mixed use zoning districts that an adult oriented business is a conditional use. Today it is a permitted use. This would make it a conditional, which means it would require approval by the planning commission, as it is in most other zoning districts within the city. The staff is recommending this portion of the request as it did the planning commission for the reasons that within the central business district as opposed to the time the code was written we now have many more residences within the downtown area and we feel the same reason that conditional uses in other zoning districts that is now appropriate that they be conditional within the cbd and dmu. The second portion would add two uses to the list of use case that are required to be it that an adult oriented uses to be a thousand feet away. It must be a thousand feet away from a school, public pa park, playground arrest licensed day care center. This would add library and museum to those uses that they must be within a certain distance from. Staff is also recommending this section of the amendment because we feel that for the same reason those other uses may be a thousand feet away, the same with museum, library, specifically the attendance of children at those types of venues.

[11:04:13 AM]

So with that and also the staff has reviewed the proposed amendments and there will still be adult oriented businesses allowed within the city limits. This would not preclude that from being a possibility. It would just add some procedural steps and certain restrictions. Both the staff and planning commission recommend approval of this item. We are ready for a motion to close the public hearing.

>> Mayor Adler: Is there a second? Is there any discussion on this? Ms. Tovo?

>> Tovo: I want to thank the staff for bringing this forward and my co-sponsors for supporting the resolution that led to this ordinance. I think it is an important change. As you indicated it will not prohibit adult oriented businesses from opening up in our downtown or other areas where the zoning categories are appropriate. It will just ensure they come for public hearing so the planning commission and the council can, if it gets to the council, can determine whether that context is appropriate. We do have areas of our downtown where that was not-happening, where it was a conditional use rather than a permitted use. We want to really ensure that as our downtown and other areas of our city change and develop that they're doing so in concert with the values that we want to promote as part of our long range planning. And I also -- we had asked in our resolution for staff to consider and the planning commission to consider whether it was appropriate to extending that to museums and for the reasons we indicated. And so I'm pleased to see that included. Many museums do have extensive outreach programs with youth so I think it's appropriate to treat them as we do schools. So thank you. For your work on this.

>> Mayor Adler: Any further conversation on item number 29? Ms. Houston?

>> Houston: Is this -- thank you, mayor. Is this effect live immediately or what is the timeline?

>> If the council were to approve the item on all three readings today, which we are ready for all three readings, it would take effect in 10 days, April 26th.

[11:06:19 AM]

>> Mayor Adler: I would point out under the grandfathering ordinances if someone initiates a permit or start-up project, you're grandfathered to the rules in place at the time with certain exceptions that have been written into the law. And one of the exceptions to that written into the law covers sexually oriented businesses. Ms. Pool?

>> Pool: What would it take to have this be effective immediately?

>> It would require a declaration of emergency passage. Staff would at this point prefer that it pass through the Normal process and then take effect within 10 days. We think that is the best situation.

>> Pool: We do have an assurance that the grandfathering would not apply in this case?

>> Mayor Adler: It's an exception in the statute.

>> As the mayor spoke, that is the state law, yes.

>> Pool: Thank you.

>> Mayor Adler: Okay. Any further conversation on 29? Hearing none, all in favor of the passage of the ordinance of 29? Those opposed? Passes unanimously with Ms. Kitchen and Ms. Troxclair off the dais.

>> Thank you, council.

>> Mayor Adler: Thank you. That gets us back to the consent agenda -- to the initial items -- the pulled items. And the first one of those is item number 2. Pulled by Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. We discussed this at some length in the work session so I don't know if there's anybody from staff to speak to it again, but the objection that I brought 'is it looked like - I believe there's a chilled water program that was referenced, and maybe we could go over that again a little bit, talk about the chilled water program and when that was brought in. And it sounds like it's another -- it's conceived as another economic development tool that has some economies of scale. If you could kind of talk us through that again, maybe we could get this done quickly.

[11:08:22 AM]

>> All right, thank you. My name is Jim Collins. Good morning, mayor and council. Jim Collins. I'm serving correctly as the director for Austin energy's chilled water program. The program constructs, maintains and operates these district cooling systems. And it's part of it as economic development, but it's so much more. We began serving customers in the spring of 2001. Since then council has supported the program through funding, incremental additions to the initial plant and through funding the construction of a second plant downtown and the infrastructure required to serve all of our customers. We currently have 61 customers on our systems. There are actually three systems. The downtown system, there's one out at the domain, and there's one at the Robert Mueller airport. There's 61 customers that have committed to our system. We serve over 17 million square feet of customer facilities including this building, city hall, and the Austin convention center. We do so with the thought of covering all of our costs, direct and indirect, and then the dividend to Austin energy, and specifically to all of our electric ratepayers are that when we pull that electric load associated with chilling a building into our plants, we get to employ this element called thermal energy storage. And that is our equipment runs off-peak hours when electricity is more plentiful and less expensive than on-peak hours. So our equipment runs off-peak hours. It makes some type of thermal storage element that then is discharged in the afternoon. When we do that it has an impact to all of our electric ratepayers in two categories. One by shifting the electrical consumption from on-peak to off-peak, it lowers Austin energy's cost of energy throughout the year, which translates into a lower power supply adjustment for all electric customers.

[11:10:35 AM]

Secondly, that demand storage piece or that thermal storage piece that shifts that peak demand from the afternoon, we shift about 20 megawatts off of the peak and push it to the onpeak. And in doing so that again translates into a lower cost, this time in the category called regulatory charges, because it lowers Austin energy's regulatory costs to ERCOT. And again, that savings translates to all of our electric payers.

>> Mayor Adler: Any further discussion on this item, number 2?

>> Zimmerman: I appreciate those remarks. Do you have -- it says here on page -- I guess the second page or the back page the statement, a valuable tool for economic development, providing new revenue from long-term service agreements. So I guess if you've got 15 years of experience with this, has there been an analysis of what the profit and loss looks like from the chilled water program?

>> Yes, sir. The program itself we maintain a 40 year financial pro forma. And the pro forma is positive. I'm trying to think of what else to say on that issue.

>> Zimmerman: If it's been done then there's a dollar amount. How much are we spending total and what's the return on the investment R. Investment. That's part of the pro forma is you have all these figures.

>> Yes, in a pro forma, and this program like any utility is capital intensive at the front. You have to pay for infrastructure, get it in place. And then you make up your money over time. And so the revenue over that 40 year period comes back in, allows us to cover our cost of capital. The return on that capital or equity. And all of our O&M costs.

>> Zimmerman: And that projection is what if you look at the total service life of the infrastructure you put in, the cost, there's some interest rate you assume of what the money is worth going forward.

[11:12:39 AM]

And the answer is?

>> And the answer is it has a net present value positive. It might be one dollar, it might be a million dollars, but frankly over 40 years there's a lot of give and take in there, but the pro forma for the downtown system is positive.

>> Zimmerman: Okay. And one more question on this point. You talked about the need for efficiency is not something limited to Austin energy. I mean, all the engineers that design these these HVAC systems and all that goes into it, don't the companies that built the buildings, they have an incentive for efficiency, for high performance. They want to get their electric bills down.

>> They absolutely do.

>> Zimmerman: So the thing is when I read this it kind of leaves the impression that oh, Austin energy, they want to gain performance advantage, they want to lower cost, they to have off-peak demand, et cetera, all this stuff, but the regular businesses and companies and engineering firms, they're doing the same thing.

>> You're correct.

>> Zimmerman: Thank you.

>> And absolutely Austin energy encourage that kind of efficiency.

>> Even if you didn't encourage it they would do it because they want to lower their energy bills.

>> Yes, sir.

>> Zimmerman: Thank you very much.

>> Mayor Adler: Any further comment on this item number 2. Hearing none, all in favor of item number two, raise your hand. Those opposed? It is 10-1, Mr. Zimmerman voting no. Thank you very much. The next item that we have pulled is item number 3. On item number 3 we have a speaker. Paul Ascendano.

How do you pronounce your last name?

>> Ascendiano.

>> You have three minutes.

>> Mr. Mayor and members of the council, I own R and R limousine and bus and today I appear in two capacities. One as a member of the united motor coach association which represents almost a thousand operators from around the country, but secondly as a citizen of Austin.

[11:14:43 AM]

I've lived here for over 12 years and I've owned R. Owned and operated my business for 10 years. The businesses I operate -- the buses I operate require a significant expenditure of resources. We bring jobs to Austin. We reduce congestion. We sell the image of Austin and we do it in the safest manner possible. Mr. Mayor and councilmembers, as an austin-based business I cannot support the ordinance as it is written. What I propose is very simple. Please consider revisions that would exempt a charter bus operator that has authority already given to it by the federal government or the state of Texas. The city should also impose additional requirements and regulations on charter bus operators who are not regulated by the federal government or the state. If this exemption is not granted, it will have a devastating effect on the industry. Just imagine if a fraction of the 10,000 jurisdictions from around the country tried to impose similar regulations to what Austin is proposing. I could potentially have one set of rules and regulations and fees when I do business in Round Rock or Georgetown or lakeway or when I go to mobile, Alabama, Jackson, Mississippi or New York City. It would be impossible to keep track of these regulations or pay those feels fees in all of these various jurisdictions. And that's exactly where the federal government has already put in regulations to prevent this. The safety requirements that companies with federal and state operating authority have to follow is extremely rigorous. The ordinance advance will do absolutely nothing to improve safety of Austin citizens and that's nothing that is not already done by enforcing the current federal motor carrier safety regulations. By enforcing the rules already in place by the federal government, the city can put -- it can already put unsafe operators out of business. Again, please consider this exemption. Thank you.

[11:16:45 AM]

>> Mayor Adler: Ms. Kitchen?

>> Kitchen: If it's appropriate to -- okay. Thank you for bringing this to our attention. I just wanted to let you know that what you're asking about is a change in the current regulatory structure. I wanted to make sure you understood that we're not creating new regulations with this ordinance. We're actually narrowing the regulations to make sure it says within the city. But the other thing I wanted to let you know is that the mobility committee, which I chair, is currently looking at all ground transportation and looking at the regulations across all ground transportation. And I expect that we will take up the issues of regulations related to the kind of entity that you work with at the same time. So I just wanted to make sure you knew those two things.

>> Thank you.

>> Mayor Adler: And just so I understand, and it relates to what Ms. Kitchen was asking. You're suggesting certain changes be made to this ordinance generally in terms of the overall policy that the city has adopted. Which is going to be considered by Ms. Kitchen's committee as part of the larger deal. This particular item before us is something that has real specific changes, some typographic, some in relation to the case that was pending. Do you have any concern with those specific changes that are being proposed?

>> The changes still include regulating companies with federal and state authority. What we're asking is

that there are two minor changes which would strike out companies that already have this authority.  
>> Mayor Adler: Right, but that's the larger policy issue. My question is if we don't want to consider right now the larger policy issue about whether we should even have this regulation or not, which is going to be considered in the committee, are the things that are before us today, which are based on the presumption that if we were going to have this ordinance, these are changes that need to be made to make it clear or to make it comply with what the court has done, do you have problems with those specific changes?

[11:18:53 AM]

>> The court actually -- the temporary injunction that was filed, the court ruled on not enforcing that temporary injunction. I don't think they addressed specifically the ordinance as much as I think these changes, or to try to clean it up a little bit.

>> Mayor Adler: Do you have any problems with the cleanup changes. Recognize you don't like the ordinance generally, which is going to be considered in committee. Do you have any problem with these specific cleanup things?

>> No.

>> Mayor Adler: Okay. Thank you. And I hope and trust that you will have a full airing of the larger policy issues in the committee. Okay.

>> Kitchen: Let me just -- go ahead.

>> Mayor Adler: Now that we've had the speaker speak, is there a motion with respect to this item number three? Ms. Kitchen?

>> Kitchen: I move that we approve item number three.

>> Mayor Adler: Motion and seconded by Ms. Gallo. And I have discussion. Ms. Kitchen, do you want to open?

>> Kitchen: I wanted to say again that the mobility committee -- I don't want to speak for everybody on the mobility committee, but we have been interested in and concerned with the level of regulation and the type of regulation across all ground transportation. So it is -- it's been in front of the committee and it continues to be in front of the committee. I wanted to reiterate that. I see the issue of the extent to which there should be regulation of an entity like a charter bus that also has federal regulation. Is something that's a larger policy issue that we need to address in the mobility committee and then bring back suggestions or our thoughts at least for the full council.

>> Mayor Adler: Okay. Mr. Zimmerman?

>> Zimmerman: I think I have a point of order. I wanted to point out that I passed out two amendments that we've been working on this this week and that's why this is kind of late. These were potential amendments I think that address the concerns that the speaker just had. So I have those amendments handed out.

[11:20:55 AM]

There's discussion on the floor right now and I have no opposition to hearing that. I would like to be open to possible amendments.

>> Mayor Adler: And you can move to amend right now. Are these amendments to the changes that are being proposed as opposed to amending the ordinance more generally?

>> Zimmerman: That's a good question. The item as it's printed here, it's five pages here in our materials. These amendments that I've handed out directly refer to language that is in our packet. So we have an ordinance in front of us that we're discussing these amendments specifically address the ordinance in front of us.



>> Mayor Adler: Okay.  
>> Mayor Adler: Give me a second, if I could look at them for just a second. Ms. Houston?  
>> Houston: Mayor, if they're not about the specific -- if these amendments, councilmember Zimmerman, are not about the specific changes, my preference is that we refer it all to the mobility committee so that they can do a more in-depth look at what the issues are.  
>> Zimmerman: Okay. Can I answer that?  
>> Mayor Adler: Ms. Houston, that's what we're looking at right now to see whether or not these are changes to the changes that are proposed or if they're just the ordinance generally. Give me one second.  
>> Zimmerman: The first -- to answer the first one, yes, they are addressing what's in front of us right now. So they're changes to what we're considering right now. But I would have no objection at all to reviewing them in more detail in mobility. I have no objection to that. I would prefer that.  
>> Mayor Adler: Okay. You are not going to amend this --  
>> Zimmerman: I would move the amendments and to take to committee.  
>> Mayor Adler: To take no action on this and send the entire ordinance to the committee.  
>> Zimmerman: With potential amendments, yes.

[11:22:57 AM]

To committee.

>> Mayor Adler: The motion has been made to send this whole matter to a committee. Is there a second to that? Ms. Tovo is not seconding, but asking to speak.  
>> Tovo: That's correct. We already have a motion on the floor and a second. Was that a substitute motion?  
>> Mayor Adler: It's not a substitute motion, a motion to postpone. It would be like a motion to table or amend or anything like that.  
>> Tovo: I'll just speak to it then --  
>> Mayor Adler: Let me see if there's a second to the motion to postpone. Is there anyone who wants to second the motion to postpone? Hearing none there is no motion to postpone. We're now continuing on debate and discussion of item number 3. Any further discussion? Ms. Kitchen?  
>> Kitchen: We will take this up in the mobility committee. So I think it's right in line with what we've talked about already.  
>> Zimmerman: Okay.  
>> Kitchen: That will include the opportunity to bring amendments.  
>> Zimmerman: Okay.  
>> Mayor Adler: That's my sense. If this passes the cleanup things will pass, but the larger issue and issues that were raised by the speaker as well as what's covered by the amendment will be in front of the mobility committee.  
>> Zimmerman: So point of inquiry. Do we have a date of when we expect it to come up? Is it the next mobility meeting?  
>> Kitchen: We can do that then. We've got an ongoing time to discuss. And actually we need to talk about taxicabs and tnc's and so my thought was to put those on the April 29th agenda. The committee may decide to talk about it then and then have another meeting to talk about it. We have to decide what we want to -- we can bring it up on the 29th, yes.  
>> Zimmerman: Thank you.  
>> Mayor Adler: Any further discussion on item number 3. Hearing none, all in favor of item number 3, please raise your hand. Those opposed? 11-0. That gets us to the next pulled item, which is item number 7. We have two speakers to speak to item number 7. First speaker is Gus Pena.

[11:25:04 AM]

>> Good morning, Mr. Mayor. Gus Pena, native east austinite, proud marine Corps veteran. I want to speak to both items if it is appropriate, item number 7 and 8, has to do with set a public hearing. What I want y'all to know, mayor and councilmembers, Mr. City manager, and let me read this. Sometimes I go off on a tangent. I know this is to set a public hearing, but at the same time veterans for progress, that's our new organization that was set forth by the atrocities and the deaths at the temple V.A. Clinic, also in the clinic here at Austin and the hospital at temple. We want to sear Z and here more parameters of the developments before you vote on it. We know what traditionally proposed developments want. The city of Austin support to receive funding and/or to request such from tdhca, Texas department of housing and community affairs. I would like to mention this also, we have several key senators at the capitol, Vietnam veterans and veterans, that are closely looking at housing as to what housing needs are here in Austin, no only in Austin, but their districts also. We just want the developers developers to know preparatory to the public hearing that the city of Austin will ensure that if these applicants want our support or funding in the future, they need to supply real affordable housing, bring figures to the public hearing and breakdowns in rental prices to see if the developments will be truly affordable. We the veterans for progress want the developers to know and acknowledge that some type of transitional housing and real affordable housing prices will really be affordable and brought to the city of Austin if, if the city needs to support this and send it to tdhca. We veterans will show up for the public hearings. We have 5560 veterans, Vietnam veterans, Afghanistan veterans that are standing in place to make sure we have true blue affordable housing for the people, not just 300,000-dollar priced homes and apartments that are being built here to our left and that's called affordable.

[11:27:04 AM]

Affordable for whom? Not for the people in need of it. We have a lot of homeless people who are not supposed to be homeless. Mayor and councilmembers, Austin gives too much. Austin is supposed to be the pride of the country and it ain't. We have a lot of people that are out there. Councilmember Garza, I know your district very well as I grew up in east Austin fifth street, but I also lived in dove springs. I appreciate your leadership on this and I appreciate your support. We, the veterans, demand true blue affordable housing. I have spoken personally to hud secretary Castro. He's a good friend of mine, former mayor of San Antonio. I have also the support of veterans affairs McDonald who will be here in three weeks to discuss this discussion. We have single women with children that are veterans, single women with children, homeless. We can't allow this to occur again and recurring. We need it. If you are going to show support for the individual developers, let's get something out of it because not only do we give support for these developments, but we darn sure need to turn it around for the people who are really homeless and need help and really need affordable housing. Do I need to give you a definition of what affordability is? I don't think so. Let me tell you this much, Mr. Mayor, you had the state of the city address Monday and it says declaring inclusion, innovation and intentional improvisation. We need more than that. We need affordability. Now, I will leave you at this. A society's worth is measured by its treatment of the less fortunate. And believe you me, I will mention god's name, Jesus name. He is looking the down at us, whether we support this or not, we better make sure we have better affordable housing for the people at the city of Austin. We have too many homeless people. Okay? Let's not let that occur anymore. Let's not let that happen. Single women with children, too many people. And they're being rejected at the arch and at salvation Army. Not enough beds over there.

[11:29:06 AM]

Sister ora Houston, you know me, I've been saying this for many years back in the 90's, even when mayor Todd was the mayor. We need support and please support us on the true blue housing terminology. And also demand accountability from developers who want our support at the state level. Thank you very much. Have a good day. Us.

>> Mayor Adler: Mr. Pen yeah, Mr. Pena, thank you. John lane. Is John lane here? Thank you. Those are all the speakers we have. That gives us then item 7. Is there a motion to approve item number seven? Ms. Pool, is there a second? Ms. Garza, any discussion on item 7? Ms. Houston.

>> Houston: Yes, mayor. I would like to have staff come up and help me understand about transit options and about where people will shop, because it looks like the closest grocery store is the Wal-Mart custom is off I-35 and what about people that don't have cars? Where's the closest bus stop?

>> Hi, David potter, program manager, neighborhood housing. I was not prepared to come here this morning to discuss --

>> Houston: Thank you for your honesty.

>> The public setting of the public hearing. We will have more information that's available. I think we -- there will be -- the public hearing on the 23rd will have information about the affordability and the rents and transit. This particular item, though, is just to set the public hearing as required by state rules.

>> Houston: Thank you. Since we had public comment and some of the issues were raised and I saw you, I thought I would ask about those couple of things. So when we come to the time when we get more information, we make sure that we talk about transit options and where people will shop.

[11:31:11 AM]

>> Right. And the agenda for that, I believe, will post tomorrow.

>> Houston: Okay.

>> Wish I could answer your question.

>> Houston: That's okay.

>> All right.

>> Mayor Adler: Okay. Any further discussion on setting the public hearing for April 23, 2015, 4:00 P.M.? It's been moved and seconded. All in favor please raise your hand. Those opposed? It is 9-0 with councilmembers kitchen and tovo off the dais. That gets us to item number eight. Mr. Pen amount of your testimony was already given point I think you said you were speaking both to seven and eight. That gets us then to comments. Is there a motion to approve item 8? Mr. Casar, seconded by empties Houston.

-- Ms. Houston.

>> Houston: Same comments, when they come back we need information about where people are going to shop and where the transit information.

>> Mayor Adler: Sounds good.

>> Houston: Jobs for this area.

>> Mayor Adler: Okay. Any further discussion? Hearing none, those in favor please raise your hand. Those opposed? So 9-2 vote -- 9-0 vote with two members, kitchen and tovo, off of the dais. That concludes the pulled items on extent. That gets us to non-extent agenda. Beginning with item number nine.

>> Good morning, mayor, council. Greg Guernsey with the planning and zoning department. I'll walk through our 10:00 A.M. Items for zoning where public hearings have been closed and we can offer them for possible extent. Item 9, c14-2014-0041 for the property located at 10300 Anderson mill road to zone neighborhood commercial conditional overlay Ir-co, ready for extent approval on second and third readings.

[11:33:26 AM]

Item 10, c14-2014-0053 property located at 12304 walnut creek crossing, and north Lamar boulevard to zone to multi-family residence, Marya fowler two zoning, second for extent approval on second and third readings. Item 11, c14-2014-11712, for the property located at 11712 north Lamar boulevard to zone to general commercial services, conditional overlay or cs-co combined district zoning for tract one. Item number 12, I think we need to address some questions on this item. Staff won't offer this for extent. I'll upload to 13. C14-2014-0199 to zone to commercial liquor sales or cs 1c combined district zoning ready for consent approval. Second and third readings. Mayor if I can continue onto where the public hearings are open and possibly offer some of those items for extent as well if you'd like.

>> Mayor Adler: So so I stay up with what you did, nine you're recommending extent approval is that right?

>> That's correct.

>> Mayor Adler: Number ten is extent approval?

>> Correct.

>> Mayor Adler: 11 --

>> Correct.

>> Mayor Adler: Extent approval. And then item 12?

>> Number 12 I think staff would like to answer some questions I think that may have arisen on this case so we would not offer that for consent.

>> Mayor Adler: Okay. And now you want to continue on?

>> Item 13 we offered for extent approval, second and third readings. Next items at 10:00. These were public hearings were open and there's possible action today.

[11:35:32 AM]

Item 14, npa-2014-0009.01, this is the waller and Swede hill property in the central east neighborhood plan area, and 1506 waller street. The related item, item 15, c14-2015-0006 for those same properties at 908 east 15th street, 807 east 16th street, staff is requesting a postponement to may 14 and my zoning manager jerry rusthoven would like to offer quick comments.

>> Jerry rusthoven, planning and zoning. Staff is requesting postponement to may zoning meeting.

There was a miscommunication between staff and applicant in this case. In the interest of expediency and to save costs we do a dual notification for both commission and -- however we failed to notify the applicant. The case did go to the planning commission it was not recommended by the planning commission at this time the applicant would like to regroup and does not wish to move forward. We're not charging this to the applicant. Staff is requesting it because we failed to inform him we were putting him on this agenda. We're okay with postponing to your next zoning meeting.

>> Mayor Adler: Okay. Ms. Tovo.

>> Tovo: I'd like to pull 11 from extent zoning.

>> Mayor Adler: If we can go through these real surface I'll ask for ones they want pulled because there's several others too and we have speakers as well. So let's continue on.

>> Thank you, mayor item 16, npa-2014-001.01, this is a property located in govalle Johnson ston terrace combined neighborhood area. The planning commission's recommendation was to grant the high density single family designation on this property, the applicant originally requested the mixed use land use.

[11:37:38 AM]

We would offer this for extent approval on all three readings. Item 17, c14-2014-0115, for the property located at 203 Broadway street and 2901 east third street to zone community, commercial, mixed use neighborhood plan or gr-mu, np combining district zoning. To grant urban family residence neighborhood plan and staff would offer this for consent approval on all three readings. Item number 18, c14-2014-0096, I understand that there's a councilmember that would like to pull this for some discussion. So I'll skip that one.

>> Mayor Adler: Why don't you talk about -- did someone want -- were you pulling that? Okay. Okay. Continue on. 19.

>> Item 19, c14-2014-0136, this is the property located at 9201 Cameron road. We have an applicant request for postponement of this item to your next zoning agenda meeting, which is in may. May 14. So I have an applicant request for a 1-month postponement on item 19. Item number 20, this is case c14-2014-0167 for the property located at 4102 manchaca road, we have a postponement for one week to April 23 that's not the Normal zoning date but the neighborhood requested that. Applicant is in agreement. You can certainly consider --

>> Mayor Adler: We have four people to speak on that so we're going to go ahead and pull that.

>> Okay. Item number 2001, c14-2014-0167 --

[11:39:40 AM]

>> Mayor Adler: I'm sorry I misspoke. You were talking about number 20.

>> 20.

>> Mayor Adler: I missed that sorry. Go ahead and finish about item 20.

>> Item 20 we have a neighborhood requesting postponement for one week to April 23. Applicant is agreeable to postponement to the 23rd. It's not your Normal zoning -- regular zoning day but you could certainly consider postponing per the neighborhood's request for one week. Or you could consider another day, which is next month on may 14, which is your Normal.

>> Mayor Adler: Ms. Gallo.

>> Gallo: Just as we talk about the one week that does put us on the Austin energy combined meeting date so it is a --

>> Mayor Adler: Let's pull that and let's talk and see if there are also amenable to something that goes past one week since next week's Austin energy's agenda is already overflowing.

>> Very good. Item 21 is case c14-2014-0167 and I believe you have speakers on item 21.

>> Mayor Adler: Yes.

>> Item 22, c14-2014-0171, for the property located at 2927 east martin Luther king, Jr. Boulevard to zone to -- the urban family residence, conditional overlay neighborhood plan or sf5, this is ready for extent approval on all three readings. Item --

>> Houston: Excuse me.

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: I'd like to pull 22.

>> Mayor Adler: Okay.

>> Item 23, c14-2014-0175a.

>> Mayor Adler: 23 is pulled by speakers as well as.

>> Thank you, mayor. Item 25, c14-2014-0176, this will be a discussion item.

[11:41:44 AM]

Applicant is in disagreement with the commission's recommendation. Item number 26 case c14-2015-

0011 for the property located at 8706 and 8800 Westover club drive. This is to zone the property to commercial recreation, conditional overlay or contractor-co combined. The remittance was to grant and this is ready for consent approval on all three readings, again noting from change and corrections this was in district 10. Item 27, 20052005 for the property located at 2363, zoning and planning commission's recommendation was to grant the cs district zoning and roof offer for consent approval on all three readings. Item 28, c14-2015-0021, property located at 4525 south I-35 service road northbound, to zone the property to general commercial services conditional overlay, neighborhood plan, the planning commission was he recommendation was to grant conditional overlay, cs-co and combined district zoning ready for consent approval on all three readings.

>> Zimmerman: Mr. Mayor?

>> Mayor Adler: Yes.

>> Zimmerman: I make a motion to approve the extent items which maybe you can double-check. U.

>> Mayor Adler: Help me I've the ones pulled. My records -- that we're pulling, the consent item would include item 9, item 10 for 2nd and 3rd approval, item 11 being pulled, 12 pulled by tovo, 12 being pulled by staff, 13, 14, 15, 16, 17 all being on the consent agenda.

[11:43:54 AM]

13 approval second and third reading --

>> Zimmerman: Back up. I had 14 and 15 being postponed.

>> Mayor Adler: 13 all three on the consent agenda but item number 13 is on the consent agenda for approval second and third reading, items 14 and 15 consent agenda postponement to may 14.

>> Zimmerman: Okay.

>> Mayor Adler: Item 16 is on the consent for approval for all three readings. That's with both 16 and 17. Item 19 on the consent agenda for postponement to 5/19. Continuing on, I have 21, 22, 23, 24, 25, all being pulled, and then I have items 26, 27, 28 on the consent agenda for approval for all three readings. And that's our --

>> Zimmerman: So moved. Same notes.

>> Mayor Adler: Move to approve that consent agenda by Mr. Zimmerman. Second by Ms. Gallo. All in favor raise your hand, those opposed. 10-0 with councilmember kitchen off the dais. That gets us to the pulled items. First pulled is number 11. Ms. Tovo you pulled this item.

>> Tovo: I did pull it. After much reflection and we did have a discussion last time I would like to move that we approve this with the staff recommendation versus what we approved on first reading. I'd be happy to offer my rationale if I receive a second.

>> Houston: Second.

>> Mayor Adler: Second by councilmember Houston. We have staff here to speak but why don't you explain.

>> Tovo: Sure. I on Mr. Thrower is here.

[11:45:55 AM]

Someone way want to invite him as well as. Mr. Guernsey were you going to say we can't --

>> That's correct. We would only be able to take second reading today. We have not prepared --

>> Tovo: Sure.

>> -- An ordinance that would reflect staff recommendation but only the action that was taken by council on first reading and yes Mr. Thrower is here to speak to this.

>> Tovo: Sure my my rationale is this. We did have an opportunity to talk about this but it's been a while to I want to talk about it again. This is a storage unit up on north Lamar and it is currently allowed to

operate as a storage unit. They are asking for a zoning that would basically memorialize that kind of use into the future, and this is an area that is changing. There are other uses around that that are not cs, including immediately adjacent to it after looking at the site several times and conclusion its proximity to the residential neighborhoods behind it and really that the area of town is changing. I really support the zoning and platting commission's recommendation and the staff recommendation that the most appropriate zoning for this parcel is what they've recommended, which is gr-co. That would allow the current property owner and any future property owner to continue that use of storage, but it would not -- if that site redevelops, it wouldn't allow for that use to be redeveloped. And I think that's the most appropriate. In all of our discussions, I never heard anyone articulate a planning principle for why a storage use on that site is really best for the surrounding areas. What I heard and what I see in my backup is that the current property owner wants a clearer title, it's making it easier for the sale. I appreciate that they worked with the neighborhood association got the neighborhood association to support their case.

[11:47:56 AM]

I'm looking over their letter and they say that they did vote 6-0 in support for cs zoning. They understand it's required for the existing business to be properly zoned for purposes of sale. And, again, that's not the way I think we should make planning decisions and zoning decisions. Our job is not to facilitate easier sale. Our job is to make zoning decision that's support our broader planning efforts, and I believe gr-co does that, again allows the use to continue, moving to cs does not, is not in support of what I see as the larger -- and what our staff see as the larger planning issues there.

>> Mayor Adler: Okay, thank you. Staff want to address this one before we go to the applicant?

>> No. Other than I want to make sure that everyone understood that it could only go for second reading.

>> Mayor Adler: I'm sorry, what?

>> That this could only go for second reading today if that's the action council decided to take, basically staff and commission recommendation and not what was approved on first reading.

>> Mayor Adler: Say that again, I'm sorry. I couldn't hear you.

>> That if you deciding to forward today with an action other than what was approved on first reading, could you only take second reading action today. And we would have to work with the law department to prepare an ordinance for it to come back for third reading since that ordinance is not available on the dais right now.

>> Mayor Adler: I understand. Mr. Zimmerman.

>> Zimmerman: Thank you. Point of inquiry. I think there was a motion, it was seconded to change it from cs-co to what?

>> Mayor Adler: Gr-co on the front and lo-co on the back.

>> Zimmerman: That's the motion on the floor now.

>> Mayor Adler: Yes, approve on second reading.

>> Zimmerman: So I be recognize todays speak against the motion?

[11:49:59 AM]

>> Mayor Adler: You can. Let's hear from the Alan -- from the applicantfirst.

>> Ron thrower representing the land owner. I wanted to provide out I provided a lengthy four-page letter that provides the support warranted for this rezoning request for the cs zoning and, you know, with that we looked at just general zoning maps in and around Austin and there is 12 examples of my

letter of cs zoning in very, very similar situations on roadways of equal sizes of lesser size and with cs zoning and with convenient storage use that abuts sf-2 or multi-family properties. I believe that zoning should not set a precedent in any way, shape, form but our model here should at least offer up a template of how cs zoning could be appropriate for this site. And so with that we have a buffer that buffers up against the residential to the back. By the way that residence has to travel three-fourths of a mile to get to the property. So not that they can walk to the property. Also, with the extreme amount of prohibited uses that we've negotiated on this, there's 50 prohibited uses that go along with this, 13 of those are cs uses and 37 of those are gr-related uses. But, again, we would respectfully request consideration on second and third reading for the CSS we asked and as it passed at first reading on a vote of 9-2. I'm available if you have any questions.

>> Mayor Adler: What was the last thing you said?

>> The last thing I said we would appreciate your support to -- for the cs zoning as requested, cs-lo zoning as y'all had approved on a vote of 9-2 on first reading.

>> Mayor Adler: I understand. Thank you.

>> Thank you.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I do remember this discussion. I think we had a lengthy discussion on this before.

[11:52:03 AM]

So was there additional information that -- for -- mayor pro tem that kind of led to this? Because I thought we had a 9-2 vote on it if I remember. So what has changed to think that we would change our decision based on what we made before? I guess that's the question.

>> Tovo: Mayor?

>> Zimmerman: The question was --

>> Tovo: I think councilmember Zimmerman had a question.

>> Mayor Adler: Yes.

>> Tovo: My position has remained consistent and certainly my colleagues' positions may have remained consistent as well. I'm just asking you to consider, again, in light of the fact that some time passed and we've had time to reflect on the case, I hope that I may have some like-minded colleagues who may agree that we -- you know, in my mind, I understand and I've read carefully Mr. Thrower's letter and the other information that we discussed at the last time, but, again, this property owner and any future property owner has a right to continue to operate a storage facility. The zoning request, though, would make that a permanent right for that property, and, you know, I just have a lot of faith in the planning principles that we've adopted as part of the city and in the staff's recommendation that we which gr as more compatible for that area and based on my own observations and review of the adjacent tracts, I believe that gr is more compatible and is a better long-term decision and that we -- my feeling is that we should not be making zoning decisions based on what's in the best economic interest of a particular property owner. They have an absolute right to do what they're doing now and into the future, but we are -- our zoning, discretionary zoning capacity should not be used to ease a sale if it's in conflict with our planning principles.

[11:54:11 AM]

>> Mayor Adler: Ms. Houston.

>> Houston: I'd like to ask mayor pro tem tovo, so they can continue to operate their business on the property with the gr-co zoning?



>> Tovo: I would -- that's my understanding, and I think it would be best to hear from staff but they have -- their zoning category now is -- would not ordinarily allow that but because it's a preexisting use and they were annexed, but Mr. Guernsey would be a better person to explain.

>> Thank you, mayor pro tem. Yes, we would recognize this as a legal nonconforming use and the activity that they have for the warehousing could continue on the property even if the zoning would not necessarily permit that use if this was granted today.

>> Houston: Okay, thank you.

>> Mayor Adler: Further discussion? Ms. Gallo.

>> Gallo: I have a question along that same line. Often the case on the nonconforming uses is the current use and the current facility and buildings is allowed but if any remodeling or additions were to be done to continue that same use, often that's a problem with the nonconforming uses. So if that were the case, they were to continue the existing uses but perhaps wanted to expand that use, add onto the building, remodel, would that still be allowed?

>> There are constraints on the ability to certainly do an addition to the structure. They could remodel the building. But they would have a problem if they remodeled, went to a different use and wanted to come back to that warehouse use. That use would be abandoned and they could not reuse the building for a warehouse again if it was brought into conformance. I'd have to go back and talk and walk through the constraints, but there are ways that -- times you can make expansions to nonconforming uses but they are constrained. You cannot just double the size of the building under our codes.

>> Gallo: So in order to continue the existing use and have the ability to expand that existing use, the zoning that they were requesting would allow that, but the zoning motion would not allow that?

[11:56:24 AM]

>> It may allow for expansion of the existing building but it would be greatly constrained.

>> Gallo: Can you define what greatly constrained would mean, please?

>> If you can give me a moment, I'll just need to pull up the section of the code.

>> So under the ordinance, it would allow them to expand a nonconforming use, but the expansion must be on the same site. It could only be allowed once, and the expansion may not increase the off-street parking requirement more than 100% of what was required for that use on March 1 of 1984 or the date it became nonconforming so it probably would have been close -- I think the annexation of the property occurred back in the 1980s.

[11:58:38 AM]

So the parking requirement in general for a warehouse is at a rate of one space for 1,000 square feet. So theoretically they could expand maybe up to 20 percent one time only for the use.

>> Gallo: How long has this current use been -- how long has the property been used with this current use?

>> I'm not aware of that. I just know it was a preexisting use prior to annexation. Perhaps Mr. Thrower may have an idea when the building was constructed.

>> The buildings were constructed in 1984 and 1985.

>> Gallo: Okay, thank you.

>> Mayor Adler: Thank you. Ms. Pool.

>> Pool: Thank you. Could you read the list of the exceptions that the -- I don't know if it's appropriate for Mr. Guernsey or Mr. Thrower to read it but the applicant has indicated an extensive list of agreed-upon non-permitted uses.

>> Okay. In your ordinance, in your backup, there's a copy of the ordinance, and on page 2 of 3, the list

of prohibited uses on the property would include agricultural sales and service, automotive rental, automotive repair, business and trade school, camp background, Merle off-street parking, electric prototype assembly, equipment repair, exterminating services, food preparation, funeral services, hotel/motel, indoor sports, recreation, kennels, offsite accessory parking, pawn shop, veterinarian services, indoor crop production, hospital services limited, private secondary educational facilities, adult oriented businesses, alternative financial services, automotive washing of any type, automotive sales, business support services, commercial, blood plasma center, drop off recycling facility, financial services food sales, general retail sales, general indoor entertainment, laundry services, monument retail sales, outdoor sports recreation, personal improvement services, research services, theater, custom manufacturing, college and university facilities, community recreation public, guidance services, maintain and service facilities, residential treatment and pet services.

[12:01:15 PM]

That's the list of prohibited uses that would be found in the ordinance.

>> Pool: Right. Under gr zoning are any of those uses allowed?

>> There would be some of these uses allowed. I'd have to actually go back and cross-reference them to get into specifics but it would still allow for general retail sales limited, still allow for restaurants limited in general to be permitted. Restaurant services in general is a permitted use, certainly in the gr district. It would still allow the various office uses, professional business administrative, all three of those types would be permitted on this property as well.

>> Pool: And my understanding is the neighbors worked fairly closely with Mr. Sheahan and Mr. Thrower to compile the extensive list in order to facilitate the transfer of the property but also with an eye to how this property use fits in with the existing uses on either side of it and in the general neighborhood.

>> It's my understanding as well that Mr. Thrower did work with the neighbors and there were no new uses added before the council meeting. I'm not sure of the number of meetings that occurred, but I'm aware that there was a conversation with the adjacent neighbors.

>> Pool: Mr. Thrower, did you have anything you wanted to add to that?

>> Not specifically unless y'all have any additional questions of me.

>> Pool: Colleagues, I'm supporting the ordinance as it's written, that the neighbors had worked together with the applicant and Mr. Thrower. I recognize that there's a disagreement with staff, and I trap, but I am support -- I respect that but I am supporting the ordinance as written on second and third readings.

[12:03:15 PM]

>> Mayor Adler: Okay. Any further discussion on the item which is to approve on second reading gr-co on the front and lo-co on the back of the property? All in favor of the motion, please, raise your hand. Those opposed? The vote is 7-2. The two are Renteria and tovo, and kitchen is off of the dais. And Ms. Garza is also off the dais.

>> Gallo: It appropriate then to make a motion to approve the ordinance as written here?

>> Mayor Adler: It is.

>> Gallo: Okay.

>> Mayor Adler: It's now been moved to approve the --

>> Zimmerman: I'll second that.

>> Mayor Adler: -- Ordinance on --

>> Gallo: Second and third.

>> Second and third. We do have --

>> Mayor Adler: Second and third reading as indicated, which is to cs in the front with lo in the rear of the property. All those in favor raise your hand. Those opposed. Vote is the same as the last vote. 7-2, to 22. Next item which is now noon, we're going to do citizen communication the first speaker we have for citizen communication is Sharon Blythe.

>> You have trustee minutes.

>> My name is Sharon Blythe, you have effectively silence silences those who work to protect the elderly.

[12:05:19 PM]

I hoped by being initiated open communication would be possible. However, that is not the case. I have tape recordings of meetings to reveal incorrect statements with those complaining. Would any of you like to listen to understand what happened? Let's bring everyone together. I welcome full disclosure of the situation surrounding my postponement to the parks and reaction board. On a personal note I married a native American. I have not one issue in my body to disrespect minorities. I am deeply offended by city employees who have no respect for those who have contributed to this community and are now deceased and have no voice. My husband was abused by parks department employees, I raised issues with Marc Ott only to be dismissed. Due to the abuse to my family, my family and I made the difficult decision to remove my husband's remains from the Austin memorial. The issues surrounding people who have complained about my appointment are hid. The east side cemeteries are forgotten by the city so their advocates lash out at me. This is a very sad east-west conflict profoundly embedded in Austin's culture not caused by me. To bring attention to the east side cemeteries I have said I thought the city of Austin has not appropriately taken care of them. Dale neck criticized me since I observed and reported him taking one of a kind historical documents from the memorial.

[Indiscernible] Inappropriately took land from the -- when I opposed this plant, he complained. Also a group of citizens embedded questions when we communicated in the cemetery master plan. Those questions have not been answered so we feel ignored. There's a complete historical incorrect boundary matched in the plan. In addition we and others do not want an access gate on the north boundary of the cemetery.

[12:07:22 PM]

However, that master plan continues to include that gate. We are ignored. The cemetery master plan is flawed and needs a correction. The parks department is not cooperative even though we offered a compromise suggesting only that the historical record be correct. We were ignored. There's no voice for the elderly who can't attend meetings easily and families who entrusted their loved ones to the city of Austin. The cemeteries are unprotected today so please understand that by silencing the people affected by the cemetery master plan the city's management has effectively ignored the wishes of many, many people. Is there any way that we can have the elderly have a voice in this process? I'll be happy to answer any questions. Thank you.

[ Applause ]

>> Mayor Adler: Misms. Blythe, thank you. We are limited in the questions and comments we can make during citizen communications. Carolann rose Kennedy.

>> I'm watching you. Okay. Good morning. I'm still dressing. Thank you all so much for serving. Okay. Ellen is missing. Delia and -- okay. I hope she's listening.

[12:09:23 PM]

Hi. Okay. I wrote this song about seven years ago. I've already sang it at city council, the old one. It wasn't fun. Lucille, her side of the song. Kennedy Kenny Rogers sang with me. Kenny Rogers -- thank you. No sing with me, not sing with me yet. Okay.

♪♪ In the bars in America across from the depots on a bar stool she took off her bra he thought he'd get closer so he waltzed on over and he whispered you're breaking the law.

♪♪ When the beer finally hit her, she said I got the jitters because my nightmares have turned into dreams.

♪♪ He gave her a quart, said go call your mother, you've got the power to stifle her screams.

♪♪ I picked a high time to leave you my dear. With two angry brats and you're all out of beer.

♪♪ Marc Ott you've changed. I've had some hard times. We've lived through some sad crimes, but this time you cry and I won't here.

♪♪ I picked a high time to leave you, my dear.

♪♪ Through pink shorts and roses and cheap wine and dozes, I never made you look small.

♪♪ Through diapers and doldrins, daddy's hotel rooms, we waltzed never having to cowl.

[12:11:38 PM]

Our sons and our daughters, we led them to waters, you're so spritessed when they won't take a drink. Ellen is back.

♪♪ Roof leaking and peanut butter without toes, bloodily stopped up sink. Breast fill being or cow's milk and flubbers with rubbers, I can't keep a smile on my face.

[Buzzer sounding]

>> ♪ Blisters and sisters, diamond seems so well to place. Through the terrible two scenes and 20 and 30, sit back, learn to talk with a drawl, you can't watch her hands because you love to get dirty, semantics amazing the grace of it all. Where the hell were you born, am I going or coming? A texan sure understand. I begged you to love me. You tower above me. Then you turned me away with your hand. I bow when I fall down. My soul takes a meltdown. Then I lift my head out of the sand because if you cannot hold me and love me for always, I'll look for another home land. I picked a high team to leave you, my dear.

>> Mayor Adler: Thank you. Thank you.

>> With two angry butts and you're all out of beer. This time you cry and I won't hear.

[ Applause ]

>> Mayor Adler: Thank you very much. Thank you. Nine next speaker is -- thank you. Thank you. The next speaker is Sylvia Servin. Ms. Servin, you also have three minutes.

>> All right.

[12:13:38 PM]

I have no time for pleasantries. I need to get right to business. I've called 311 on several occasions, which is the first point of contact for things like trash problems, loose dogs, potholes, traffic signals out. I've requested for 1200 east bend white going westbound under the overpats to be restriped because vehicles are constantly invading my space, my lane. I've never hit a vehicle in the 40 years I've been driving. If a vehicle happens to hit mine, I'm going to be mad. I usually have to get out of the way, and then there's the concrete medium at I-35 and William cannon between kfc and taco ca bon in a, the west side of I-35 that need to be repainted reflective yellow. My friend hit it and her vehicle could have been damaged. She does not appreciate it. I am not on the city's payroll but 311 should know what department she should give it to or if they need to give it to txdot because it's been about three months on one and eight months on the other one when I called. Have you heard the city construction worker

joke about the two city workers, one was digging a hole and the other one covering right back up. This kept going on and on, digging holes, covering them right back up. Someone asked why are you digging a hole and your coworker comes right back up? One guy says, oh, the guy that plants the trees didn't show up for work today. That's not a true scenario but this is true. This happened on my street. This happened about six -- few months ago. There were six city trucks, dump truck, tractor, another truck with -- hauling a trailer to complete a 2-foot by 10-foot paving patchup. Probably is a little bigger than this table. So one last thing.

[12:15:40 PM]

I was scheduled to speak last week but something happened at work so I couldn't leave on time. So I think you need to have standby. If someone wants to show up and speak in case someone doesn't show up. I know it's requested to have a topic but sometimes there's no comment made anyway. I hope I haven't given you too much homework.

[ Applause ]

>> Mayor Adler: Thank you, ma'am Carlos Leone. Mr. Leone. Three minutes.

>> Thanks, mayor Adler. Carlos Leo. This. April 16, 2015 to speak what's right. First and foremost, gracious

[non-english language] Conspirator letting me see and speak. With Hillary Clinton now running for president in 2016, recall that article 2 section 1 of our constitution refers to the president as he and requires him to be a natural born person and citizen for good reasons embedded in our declaration of Independence. Document on screen. We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain unalienable rights. Since they and there refer to men, who is the we? Unalienable hints that the we are non-male aliens, grudgingly recognizing men have god given rights the we do not. Sounds weird at first, but prior to submitting facts to a candid world, reads like an alien commentary on humanity, evidenced by they, their, them, referring exclusively to humans, people, men, and mankind, separate from the we and king George.

[12:17:50 PM]

The first hour refers to the we's human resources labeling people, the we's possession, quote, "He send hither swarms of officers to harass our people and eat out their substance" after that to protect we's human live stock from the king's spiritual locus the we verbal ally mankind saugus or our 36 times because the "We" apparently initially joined with king George to civilly control and spiritually feed off humanity but were label double crossed to be militarily dominated by George and other enemies. Quote he has affected to render the military independent of and superior to the civil power. Quote "He has combined with others to subject us to a jurisdiction foreign to our constitution and unacknowledged by our laws, giving his assent to their acts of pretended legislation, like today's biden-obama administration and psychological warfare machine. It seems the we and the others are at least two alien evils, warring with each other to enslave and use good humans whom god favors so the we appointed the we representatives of the United States of America to appeal to the supreme judge of the world in good people's name and authority to release humanity and the we from the others overt tyranny so the we could, again, covertly leech and control humanity.

[Buzzer sounding]

>> Screw that. Let's kick evil to the curb and affect individual liberty to serve the good lord freely and elect a godly male froze lead humanity to the stars.

>> Mayor Adler: Thank you.

>> In Jesus' name I pray.

[12:19:51 PM]

Amen. Thank you, lord, and god bless Texas.

>> Mayor Adler: Thank you, sir. Next speaker is Monica Hernandez Mota.

>> Hi.

>> Mayor Adler: My, Ms. Mota.

>> Hi.

>> Mayor Adler: You need to -- is your mic on?

>> Sorry.

>> Mayor Adler: Thank you.

>> I calm a few weeks ago and I had spoke. I had spoke about it's time for a change, and I had left off -- y'all my speech. I started my speech, and I didn't get to finish it. I didn't know -- I don't know if y'all had a chance to read my speech. But basically I'm just pretty much -- just want to speak for the people here in Austin, and I'd like to speak. Some of my speech says I come in the name of the lord, let my people go, let them be free from suffering and pain that they go through, seeing their loved ones sick or dying from cancer or any other disease. Let my people go, let them feel free, safe, driving in the streets with their friends and family, free to do as they please as long as no one is being hurt. And as long as they hurt no others. Let my people go. Give our children the guidance and opportunity to go to school debt depreciation doing whatever they feel happy about as long as it doesn't affect anyone negatively. Let my people go, show our children at an early age what drugs will do to them and how it will destroy their lives, maybe take them to a rehab and let them see the destruction drugs will do to one's life. Let my people go.

[12:21:52 PM]

Build more roads toll free I might add, mopac to fix I-35 and mopac and the other congested streets so we don't have to be in traffic for one hour or more rushing home to make our families dinner and work on our hoax homework -- work with homework on our kids. Let's raise the minimum wage to \$15 an hour so we can better provide for our families so maybe we can have extra money to do more things with our kids and friends and also give a paid vacation to all -- to all and paid time for expectant mothers and fathers. Did you know the local rate pays \$7 an hour and doesn't include gas. I found this out recently when my husband lost his job and he went to work there to make ends meet. He had to drive 15 miles out and 15 miles back, but they don't pay for the gas. If we have to lower the pay of the our CEOs from make millions while the average worker makes minimum wage, barely getting enough time or little time or no bonus while CEOs and higher ups are getting high pay and a lot of time off with great benefits. That's not fair and let's try to shorten the gap.

[Buzzer sounding]

>> I know that there's a lot of things that I'm asking of y'all but I know there's some things that y'all can do, and I do know that as far as these -- the energy -- the city of Austin, as far as the energy, I understand that y'all were having some -- just recently, about --

>> Mayor Adler: We're going to be going ahead and having executive sessions on the energy. Thank you for your comments today.

>> Okay.

>> Mayor Adler: Thank you.

>> So I just wanted to say also to Ann kitchen, I understand that you were trying to get some leaders in the Austin area, one was Javier Mota and you were trying to get together local leaders to represent the people, and so I just wanted to say that, I mean, are y'all still interested in knowing what the people

needs and wants?

[12:24:20 PM]

>> Mayor Adler: It's good to have these citizen communications so that you can say and you can contact each of the offices as well.

>> Okay.

>> Kitchen: Let's talk afterwards. I'll be happy to.

>> Sure.

>> Mayor Adler: Thank you very much. Next --

>> Thank you all and also I know there's a lot of other issues but fluoride is one of the main --

>> Mayor Adler: Your time is expired.

>> Okay.

>> Mayor Adler: Other people are waiting. We immediate to give them a chance as well.

>> I understand that but I also wanted to say --

>> Mayor Adler: Ma'am, ma'am, everybody needs a turn -- if I --

>> Can I finish my sentence?

>> Mayor Adler: No. You've had six minutes and you're only entitled three.

>> Okay. Can I finish my sentence.

>> Mayor Adler: No because you've had a lot of extra time.

>> Fine.

>> Mayor Adler: Thank you very much though. Ment the next speaker is Phil Thomas. And.

>> Hello, mayor, councilmembers, city staff, fellow austinites, I'm Phil Thomas of 68 Mildred street, east Austin and east town Lakes neighborhood preservation chair. While we support the concept of preservation wholeheartedly and applaud the efforts of the historic landmark commission, the time has come to recognize that the criterion for historic zoning or landmark designation is allowing a seemingly unstoppable tied of vanishing housing stock in east Austin. Our east side was not in general a home to the well-healed, well-educated power brokers of the late 19th and early 20th century. Instead it was home to those who actually built and maintained this city. East Austin residents were elevator operators, brick laser, steam fitters, pipe fit ebbs, stone masons, teachers and nurses just to name a few. Their work still endures throughout the city, though there may be no markers.

[12:26:23 PM]

In order for the commission to preserve historic and historically working class neighborhoods, the paradigms of preservation need to change. Ask yourselves what will happen to one of Austin's best loved neighborhoods crestview when it turns 100? Will the post war bungalows be flattened because no one who lived in them making a significant contribution under current parameters or raised because there's more exams of that architectural style niche. The commission needs to accept change do meet this century of Austin's existence. The one size fits all criteria of downtown, old wets excited hide park are not going to achieve preservation in east Austin unless we can view preservation in a new light. The task force urges the commission to reconsider current requirements for historic zoning and landmark status and where they are failing east Austin neighborhoods. The task force proposes innovations. First Austin could be segmented in multiple growth Zones, to be assigned by the commission, and/or a style tippifying a particular Austin neighborhood. Second a new zoning type could be created, that of the heritage home. The criteria would be continuous ownership of the same home by two or more generations of the same immediate family, perhaps a tax exemption for that property would help keep our sustained families and their accompanying support structure from being broken up due to market

forces beyond their control. Naturally, there are many details and nuances to work through and we welcome a role in this creative process. Please consider these recommendations as part of the serious conversation we all need to have about adopting our criteria to ensure we preserve the legacy left us by Austin's working class as well as the elites.

[12:28:24 PM]

People from everywhere come to Austin and fall in love with the neighborhoods as they are. There is a history and culture which intender the charm, it is the charm which draws the people to visit and live. Let's proceed with a more equitable approach to our process.

>> Mayor Adler: Thank you very much.

>> Thank you tore your service.

>> Mayor Adler: Next speaker is Robert yoens. Is Robert yoens here? Okay.

>> Thank you, city council. We're going to be visiting about drones for a moment. My name is Robert yoens, owner of camera winnings aerial photography. Prior to south by southwest, chief Acevedo made the statement regarding south by southwest that city ordinance 13-1 prohibited flying drones in Austin. Let me introduce Henry right here. You can see the toy drone he was throwing there. He was issued a citation by the city of Austin police department for flying that in his local church yard. So in the applied city ordinance 13-1 which is related to general aviation code in Austin, full scale airplanes, since this ruling affected both my business and recreation I contacted bobby yont and Joe Duran representing hundreds of fliers of our aircraft and drones here in Austin. Bobby, did you make it? Joe Duran, president of the north Austin club. They were in big support of talking to y'all and getting this resolved. In addition to the local clubs there are thousands of individuals in Austin that fly remote control aircraft. Hobby stores sold over 3,000 remote controlled drones and aircraft. According to fry's they sold several thousand more.

[12:30:26 PM]

That's two stores. Drones are adored by a lot of people in this town. Prohibiting drones is not good for business in Austin. I'm happy to tell you that my mission today changed. At 9:05 last night I was contact zero by the Austin city attorney and they informed me that he and chief Acevedo had gotten together and decided to not choose 13-one to regulate drones, they're going to use a very positive attitude of let's be safe. So my mission has changed. The news today is good opinion 13-1 will no longer be applied, no longer will APD be citing guys for flight toy aircraft, according to Mr. Douglas thereby be a relies by APD today clarifying to all the police in the field no longer to issue citations for flying remote control aircraft. My mission is to inform thousands of tech savvy people enjoy the remote control aircraft and drones. It's drones I had to today. It saves lives by flying cameras instead of having to people people up in aircraft, will create jobs in Austin. We have the search center for three robotics here, they did drone research at the university of Texas and a wholesale substituter here in Austin, so restricting drones at any time in the future, before you do that I hope you will take that into consideration because drones are good for business and will eventually help our fire department. I know they've applied and the police.

[Buzzer sounding]

>> Mayor Adler: Thank you.

>> Just wrap this up. The Dec center of the nation promotes drones. Thank you very much.

>> Mayor Adler: Hang on a second.

>> Sure.

>> Gallo: Thank you for being here.



>> You're welcome.

>> Gallo: My son has a drone which he flies and when zero APD did their initial press release about it being illegal and confiscating and doing fines I sent that information to him but there obviously was a lot of information that was being passed around that was perhaps not interpreted correctly.

[12:32:41 PM]

Is there anything else we need to do at this point to clarify?

>> No. I just want to tell you that chief Acevedo is the coolest guy on the face of the Earth.

[Laughter]

[ Applause ]

[ Applause ]

>> He responded within three to eight hours every time we exchanged e-mails and David Douglas who supported using 13-1 to cover model arrive area, he was open minded. I shared FAA regulations on, you know, the air space is governed by the FAA, that APD doesn't have the authority to do that. He listened and by listening he changed his opinion, and I shared some information out of the Boston's marathon dealing with drones, like for south by southwest the statement is going to be next year you can't fly drones in south by southwest because there's people there and we don't want them falling in. That's logical. We have code to protect the people on the ground. Right now this is a celebration for us that the city no longer is going to fine your son for flying his --

>> Gallo: Thank you. There are enough other ways he can get in trouble so thank you. I do appreciate you bringing this forward and spending your time to work towards a really good resolution it sounds like and I applaud the police department for working with you.

>> Thank you, sherry, city council.

>> Mayor Adler: Thank you very much. Excuse me. Thank you very much. That ends citizen communication.

>> Mayor Adler: Do we want to take a lunch break at 12:30 and come back? Does 1:00 work to come Alabama back? 30 minutes? We'll -- we'll reconvene at 1:00.

[1:07:36 PM]

>> Mayor Adler: If we're set,

[1:17:53 PM]

we'll go ahead and get started. We're going to -- if it's okay with the council, we're going to pull out of tush item 20 because there's an disagreed postponement on that. Did someone pull item 20? Do you want to talk to us about item 20.

>> Yes, item 20 was a postponement request I offered earlier where the neighborhood and property owner had agreed to postpone to one week, April 23 and I believe council wanted to discuss about postponing it to the 23rd or possibly your regular zoning day of may 14. During your break we were able to actually speak with the owner of the property and a representative from the neighborhood and I understand they have agreement to postpone to your regular zoning day of may 14 so staff would offer a neighborhood request for postponement of item 20 to your may 14 agenda as a consent item.

>> Mayor Adler: Someone move that? Mr. Zimmerman, second, Ms. Kitchen. Any discussion. Hearing none, all in favor raise your hand. Those opposed? Postponed until may 14 meeting. Thank you. Next item is the staff briefing or explanation on item 12.

>> Yes, mayor, council, G Greg againry item 12 is case c14-2014-0157 at 8528 burnet road. This is

proposed for second and third rating. Rezoning of this property. The requested zoning is for ms-6 on this property, multiple family highest density conditional overlay combined district zoning. The ordinance we have on your dais would outline the conditions that you approved at first reading and I'll just correct that there's a limitation of 225 units, 60 feet height, limit development intensity to no more than 2,000 vehicle trips per day and far or floor to area ratio of 2-1.

[1:20:06 PM]

This property was developed and used for -- in the past as an auto repair facility and a plumbing supply company. It's surrounded by cs zoning to the north, south, across burnet road to the west and has faculty family or mf -- excuse me, multi-family zoning to the west. I believe there's questions that had arisen regarding sidewalks and speed humps and possibly commercial sign standards -- commercial design standards, those are things we would typically look at at the time when a site plan comes energetic look to go characters and the layout of the property, sidewalks could be looked at either subdivision or at the time of a site plan and we would only require them and could only require them really adjacent to this property. I know that there's a question, I think, that may have been raised by the neighborhood about extending sidewalks beyond the property and I'll let the applicant's agent actually address how they would respond to that. I think there was also a question about the meeting that took place between the neighborhood and the applicant's agent agent, and I'll let the applicant or their agent come forward and tell you about the meeting. There's someone from the neighborhood, they can also speak to that as well. The last item dealt with speed limiting devices, the humps or cushions on that. And the city does have a process for providing that that works through our Austin transportation department, neighborhood would make application. I believe there's actually an application filed in the past for this particular neighborhood. I don't have all the details beyond that but I do have Austin transportation staff that can explain that process but that would be beyond this zoning request that's before you today. Certainly the applicant could join the neighborhood's request in making that, but it's not -- we could not make a condition of the zoning to require the applicant to pay for a speed hump or speed pillow, cushions, beyond their property.

[1:22:12 PM]

So that I'll pause. The applicant's agent is here that can address conversations about the meeting that they had with the neighborhood and in addition to any sidewalk improvements they may or may not be willing to do beyond the property.

>> City council, nice to see you. To address the meeting that took place in between first reading and today, we -- Henry Gilmore, the attorney and I, coordinated a meeting with the north shoal creek neighborhood association. It was our attention to meet, further listen to their side, their position, pursue any options that were available, see if further negotiations could take place, if there was a way to find a middle ground. When I arrived at the meeting, it was stated that the meeting was not to negotiate or further discuss the project. It was a very short meeting. I was unable to hear any of their position and unable to further pursue a compromise. So that was the summary of our meeting.

>> Mayor Adler: Is there a motion on this item? Number --

>> Zimmerman: I'll make a motion.

>> Mayor Adler: 12.

>> Pool: I was prepared to make one after the presentations had been made.

>> Mayor Adler: All right. Are there any questions of the applicant while the applicant is in front of us?

[1:24:14 PM]

Ms. Tovo.

>> Tovo: Can you help me understand your comments. I think you said it was stated that there wouldn't be any negotiations?

>> When I met with the neighborhood association, they stated initially before anything was said that they were not there to negotiate or further discuss any compromise.

>> Tovo: Thanks for clarifying that. So have you made any changes to your application? I know one of the questions that arose at our last hearing, at least I believe it arose, it's been a while, was the question of whether or not there would be an affordability component within your project. And I don't know whether you have any new information for us, if you intend to have some units reserved as affordable housing, and, if so, at what time lines and what income level?

>> So I voluntarily concluded affordability -- included affordability prior to zoning staff, planning commission and city council hearings. We are providing 15% affordability at 80% mfi for a 10-year term under smart housing. That was done voluntarily and above the minimum requirements of smart housing, which is 10% for five years.

>> Tovo: Okay, thanks for that reminder. And digging a hole was consistent with what we talked about at the first hearing and that's where you've stayed?

>> Correct.

>> Tovo: Can you remind me what 15% equates to? Is that 15% of the square footage or 15% of the units?

>> Units. We are currently at 34 affordable units under the 225 unit cap that's been imposed.

>> Tovo: Okay, thank you.

>> Mayor Adler: Further questions or comments to the applicant?

>> Pool: Yeah.

>> Mayor Adler: Ms. Pool.

>> Pool: Can you tell us, the 34 units, the breakdown from efficiency, one, two, 3-bedroom?

[1:26:20 PM]

>> Through the smart housing program, there are no requirements I do not currently own the site. Reasoning behind the lack of requirement under smart housing is due to the fact that to impose a unit MIX, this far in advance of certification of occupancy, with market changes, smart housing understands that at this time, it is a suggestion. When suggested that unit MIX breakdown is provided at certification of occupancy, which is once the site is built. It's very early on to be asked to agree to a unit MIX with the fluctuations in the market, and the fact that smart housing is not required.

>> Pool: Is there anybody here with the smart housing program?

>> Good afternoon, I'm with neighborhood housing and community development.

>> Pool: Hi.

>> Hi, how are you?

>> Pool: Good, thanks.

>> You had a question pertaining to smart housing?

>> Yeah, could you give a brief overview of the range of units in smart housing, like how many years, the MIX of bedland size, parts of town?

>> Correct. For the program, the minimum percentage of units to be used to participate is 10%, whether it's multifamily or single family. The highest that can be served would be 80%, so 80% or below can be served. We encourage a unit MIX, but it's not a requirement at this time.

[1:28:24 PM]

>> Pool: For how many years?

>> For multifamily, it would be five years.

>> Pool: That's the minimum. I asked for a range. How many years is the range on that? We have some smart housing programs already in place in the city. And what's the top number of years that have been

--

>> Ma'am, there's several different other development programs that do have different affordability terms. Some have 40 years for the tod projects. For strictly smart only five years.

>> Pool: That's the minimum, but the developer has the ability to expand that, correct?

>> Yes, that's their prerogative if they wish to make that greater than the minimum.

>> Pool: Are there incentives that are paid, or discounts provided to the developer who participates in the smart?

>> Yes, the development is eligible for certain fees that are assessed through the development process, and through inspections and so forth, yes. And they would be eligible for that.

>> Pool: And what are those?

>> They range from fees to development review fees for submitting applications. Just some very -- site plan review and so forth. Items like that, when the fees are waived or discounted for the program.

>> Pool: Do you know the range of those fees from low to high?

>> I think the most -- the fee that's more impactful would be the tap fee that gets waived, a certain percentage.

>> And tap stands for?

>> Wastewater connection.

>> That kind of a tap.

>> There is a fee that's assessed with that, and they recently changed.

[1:30:28 PM]

So, for -- I wouldn't know what it would be for this project because of the number of units. I'm not sure what that would be at this time.

>> Pool: And then are there any requirements that the smart -- the application to the smart program actually occur, or is this purely voluntary on the developer? The developer can say, the front end I would like to participate in the program, but then decide not to participate, in which case there would be fees that having waived, would be paid?

>> Correct, ma'am. Anytime anybody wants to certificatefy, they have to submit an application, which they will take whether it's in a certain different phase of the development, they can do that. At that time, the Co, when we go to put in a restrictive covenant on the property, if they choose not to participate in smart housing because of forces in the market, what have you, they have to pay back all waived fees.

>> Pool: Can you give us a sense of how much that would be?

>> We have done some analysis. I believe the average fee waiver on the average for a unit would be close to \$2,500 per unit.

>> Pool: Over what period of time?

>> That's upfront, the waiver. The fees are waived during the development process.

>> Pool: It's \$2,500 for each of the units that is part of the smart housing?

>> That's an average.

>> Pool: Okay, thank you. Mr. Sackman, what is the range of rental prices that you're looking at? I think there were some Numbers provided by Mr. Buoy in a handout yet.

>> There are estimates. This project will most likely -- if approved, will come to market in over two years.

[1:32:28 PM]

There are estimates I can provide. With current comparables, 1200 a month thereabouts for a 600-square foot studio. Around 1500 a month for an 800 square foot one bedroom. Around 2,000 a month for an 1150 square foot two bedroom, and just over 3,000 a month for a three bedroom.

>> Pool: Those don't sound very affordable to me.

>> Those are the market rates.

>> Pool: I think there are some units currently available nearby for a small efficiency for about \$750.

>> The other product in the Ar area, which is all over 30 years old, there are reductions in rent. But, currently, the variety that's demanded of product in the area does not exist. For a 30-year-old product, there will be lower rents. I can provide the comparable rents for new product. That is in line with these estimates.

>> Pool: You mentioned when you spoke to us during first reading that you were intend withing to put high-end finishes on your apartments, which is probably contributing to the attractiveness and to the cost. Can you describe what you mean by "High-end finishes"?

>> Stainless steel appliances, granite countertops, extensive outdoor amenity spaces, pool. We have business centers included, gym included. These are all costs to the project, to provide the level that we intend, and we feel is needed in north shoal creek.

[1:34:29 PM]

Balcony spaces, hardwood floors.

>> Pool: Okay, thank you. You also made some attributions about the meeting with the neighborhood association, and I think I see some representatives from north shoal creek here. If they'd like to come up and maybe provide their perspectives. I see Kevin weir, and possibly Sharon justice.

>> Mayor Adler: I don't know the answer to this question. Is there a limitation on being able to call people up to talk?

>> Am I on? My understanding is that the public hearing was closed after first hearing -- after the first reading of the ordinance, and council voted.

>> Mayor Adler: We would have the right to open up the public hearing?

>> If you officially wanted to open the public hearing, you would need to re-notice, because the public has been told that public hearing is closed. The council can, if council wants to ask a particular person a specific question, council can do that. We do need to make sure that it doesn't actually turn into a public hearing. But to the extent that council has questions that it wants to ask specific people, council is perfectly free to do that.

>> Mayor Adler: Okay. I understand what she's doing to be doing that.

>> I was going to say, I don't have any objection. I think there were comments made that referenced this. So it would only make sense for the other side to have a chance to be heard.

>> Mayor Adler: So the rules allow, and we find that to be -- so, Ms. Pool, you can go ahead and ask your question.

>> Pool: Thank you, mayor.

[1:36:30 PM]

Thanks for coming up. If you all would introduce yourself, and maybe provide some information relating to the statements that Mr. Sackman made about the meeting that you had between the first hearing and today.

>> Sure. Thank you for the chance to speak. I'll make it brief. My name is Kevin weir, a member of north shoal creek neighborhood association. Sharon justice was at the meeting, so I'll let her speak to the meeting in particular. But, a little context. I guess the letter of the law of what Mr. Sackman is saying is true about negotiating, but the spirit is not. We've been open to negotiating from the beginning. We weren't authorized to negotiate because our membership took a vote against mf6, but we said we would take back whatever they had to offer back to our membership to consider. The setup is we invited them to our neighborhood association meeting in, I believe it was November. And asked them to speak, and then at that time, we asked them if they -- on several different point, the membership asked them if they would negotiate and they told us no on everything. Before the first reading, last time I approached Mr. Gilmore and Mr. Sackman and said, whatever the vote comes out, let's keep talking. Mr. Sackman laughed and said, I don't need to talk to you. If I don't get what I want on this project I'll develop another piece of property. After the first reading, the vote didn't go our way. I went back to them in the lobby and said, I want to keep talking, so, I'd like to keep talking. Mr. Gilmore said, sounds good, I might have things to offer you, I'll be in touch. We didn't hear. They contacted councilmember pool, I reached out and said let's set up a meeting. We wanted to hear what they had to offer and take it back to the neighborhood, but they said their position hasn't changed.

[1:38:32 PM]

I'll let Sharon justice speak. She was at the meeting.

>> My name is Sharon justice, I'm a board member for the north shoal creek neighborhood association. I'm also a member of the development committee. Our understanding going into the meeting was that we were to hear what new presentations, ideas, suggestions, concessions Mr. Sackman had to make. Kevin weir, our development committee chair, could not be at that meeting. A colleague at Kenneth Webb and I were the representatives from the north shoal creek neighborhood association at that meeting. And we did say we were not authorized to negotiate. And I assume based on that, that Mr. Sackman heard, north shoal creek would not negotiate. That was not our intent. Before we left the meeting, I asked Mr. Sackman why, after telling us he would not decrease the number of units at the first city council hearing, the number dropped from 300 to 225. And his response was that he had been caught off guard. That is simply my view of what happened in the meeting, and I'll leave any interpretation beyond that up to you.

[1:40:33 PM]

>> Pool: Thank you, Sharon. Does anybody have any questions for --

>> Mayor Adler: Yeah, does anybody have any questions? We have Ms. Gallo, and then Ms. Kitchen.

>> Gallo: Thank you for being here. A couple of questions related to tenant properties, apartment communities, multifamily communities, particularly in your neighborhood association geographic area. I spoke to several leasing agents that I know that really work and specialize in the north central area of Austin, and they have all said to me that there is a substantial lack of newer rental, multifamily units in that area. And there is a very large demand for that type of housing, because there is a large young population that works in that area. And the younger population seems to prefer the newer properties with the newer amenities, versus what they keep telling me, vintage properties that are older. And so, having heard that, I was just wondering if that's kind of your impression of your neighborhood, also. If you might be able to mention if there are any other newer multifamily properties that have been built in the last several years that might meet that demand, or if it's truly lacking in that area.

>> There is demand in that area for new housing. And we recognize that. Our counteroffer to mf6 was for mf4, which would have permitted about a 150-unit apartment complex to have been built. There are

no new apartment units constructed recently in north shoal creek. Further down on Burnett, there is Burnett marketplace coming online with about, I think, 300 units. Burnett flats, and further down on Burnett, anlee has come online.

[1:42:40 PM]

>> Gallo: Okay, thank you. One other question as we talk about the percentage -- the large -- percentage of people, 50% probably, rent. We want to make sure we include that voices in our decisions as we make policy here in Austin. What percentage of your membership would you say would be renters?

>> Very small. We have tried to reach out. We want to represent both homeowner and renters, but, by far, predominantly, the neighborhood association membership is homeowner.

>> Gallo: And do you have any estimate on the percentage?

>> I'm sorry, I don't.

>> Gallo: Thank you so much for being here.

>> Mayor Adler: Ms. Kitchen, and then Ms. Houston. Bless you.

>> Kitchen: My question goes back to either one of you. To just simply -- it sounds to me, if I'm hearing correctly, that you all are still interested in working out some kind of mutually acceptable solution with the developer, is that correct to say?

>> Yes, yes. We feel like we've not had an opportunity.

>> Kitchen: You know, for whatever reason, the communication hasn't occurred. So it sounds to me that it wasn't that something was offered that you rejected, or that you rejected something that they offered. It was more a matter of, y'all didn't even communicate, is that correct?

>> Yes.

>> Kitchen: Okay. I have questions for Mr. Sackman.

>> Mayor Adler: Any further questions for the neighborhood, while we have the representative here? Okay, thank you very much. Ms. Kitchen.

>> Kitchen: So, I have the same question for you. So, are you in a position where you are -- it sounds like you went to the meeting.

[1:44:43 PM]

It sounds like you were interested in having a conversation. And, you know, it's unfortunate. It sounds like the communication on both sides didn't work, for whatever reason. So, are you still available and interested in working with the neighbors to see if you guys can come up with a mutually acceptable solution?

>> I, for the last eight months, when this was first filed for rezoning, have met with them back in November. Have altered this zoning case with additional overlays four times. I met with them, made it very clear that I was here to listen to their thoughts, see if additional compromise could be achieved. I was willing to listen. I was willing to discuss. It was stated prior to beginning the meeting that there was no negotiations that would take place at that meeting.

>> Kitchen: Yeah. I'm not really interested in what happened. I'm asking about where you are now going forward, because I'm trying to understand. I would just hate -- it sounds like there was a real miscommunication. The reason I'm asking that question is because, at least there was some understanding that you all had some ideas, at least after the last -- or at least the neighbors thought. Maybe they misunderstood. They seem to think after our last vote that you all -- I think they referenced that Mr. Gilmore, perhaps, said that you all had something to bring to the table. I'm simply asking where you're at right now. Are you willing to sit and talk with them?

>> I am -- there has been talk about sidewalk improvements along our site, as well as the corner

Waterloo site. The owner of the site -- that is not the property in discussion. I'm willing to provide those improvements. In terms of the density, the height, as stated in the last reading, there is no additional room in terms of the density and height for this project to come to fruition.

[1:46:56 PM]

So there are no more -- there's no more room for me to negotiate on those points.

>> Kitchen: Okay. My second question goes back -- you may have stated this and I just didn't hear it. But, I think you had said that your target was 34 units, affordable units, is that right?

>> That is the current unit, affordable units under this 225, yes.

>> Kitchen: Okay, so that's what you were going to work towards, but you're not required to, is that what you're letting us know? So, that could change, it could be less?

>> Under smart housing -- and I will -- Javier mentioned the restrictive covenant, which would tie me to that. I'm willing to sign the restrictive covenant. The unit MIX is still going to need time as the market evolves, but I will commit to whatever the final unit count comes to to providing 15%. That's what I can do.

>> Kitchen: And what would be -- just -- I'm not -- you provided some rental amounts earlier. What would be the rental amount for the affordable unit?

>> It would be based off the 80% median family income, and rent will be 20% of that number. And that will change. It changes yearly.

>> Kitchen: I'm sorry, I'm not understanding the math. Earlier you had said, for example, you had given us some Numbers.

>> Those were the market rents.

>> Kitchen: Yeah. Just take one of those examples and tell me what the affordable rent would be for it. I think you had mentioned a one bedroom, or a two bedroom, and . . .

[1:49:00 PM]

>> So, at a one bed -- so the represent for a one bedroom based on current figures would be \$840 a month.

>> Kitchen: For the affordable unit.

>> Correct.

>> Kitchen: For one bedroom.

>> We are estimating comps at 1500.

>> Kitchen: You're estimating what?

>> The market rate.

>> Kitchen: The market rate of 1500, it would be 800. Okay. And the two bedroom would be . . . ?

>> I have these calculations at 1175 a month.

>> Kitchen: Okay.

>> Market being around 2300.

>> Kitchen: Okay. So a two bedroom affordable unit would be around 1100 something, and the one bedroom, 800 something. And that would be for people at 80% of mfi, which, I don't know what that is from an income level.

>> Casar: Councilmember, I can read those off. We usually have it. 80%, one-person household, 42 to 50, a two-person household, 48, three-person, 54, four, \$60,000.

>> Kitchen: Okay, thank you. That's all my questions.

>> Mayor Adler: Ms. Tovo.

>> Tovo: Thanks for that information. So, as I understand it, you've set it at based on the discussion we



had earlier from our staff member, who I have a few more questions for, you've determined to set the smart housing rate at 80% mfi, the maximum. How did you decide that was your target?

>> That was outlined in the smart housing program, which I agreed to, which is the city's avenue for affordable housing.

[1:51:04 PM]

>> Tovo: That's the maximum, as I heard the staff member say before. 80% is the maximum. We have smart housing that I think begins at 30% on up. I'm asking how you decided to set your affordable target at 80%.

>> The situation surrounding the smart housing and the affordability on this site, for every affordable housing program in the city of Austin, affordable housing is provided in exchange for higher density, more height, voluntarily including this. And this is not really an exchange. It's because it's understood that with higher density, a developer is allowed to and able to provide more sustainable affordability. When I first proposed bmf6, we were at 91 units. Now it's been reduced to 34 by the city. That is an extensive amount of houses in north shoal creek that will no longer have access to affordable units. The mf4 proposed by the neighborhood cut it down to 13 units. The biggest impact to affordability have been concessions imposed by the city.

>> Tovo: I appreciate your perspective, but, we're talking about an increase in entitlements that would allow you to create more density. Those are not entitlements you have.

>> That's incorrect. The current zoning allows for two to 1far and 60-foot height. What I am proposing is the same density, the same height. There is no increase in density, no increase in height. I actually have less impervious cover. So, this is a change of use to a use that is demanded in the neighborhood, in addition to providing affordability that is not required under current zoning, with no further benefit in terms of density and height.

[1:53:08 PM]

>> Tovo: Okay. I have an additional question. It look like our housing staff has one. Thanks for describing. You were talking in answer to one of the questions about the high-end finishes, and I wanted to confirm whether the interior high-end finishes would be available within the affordability units.

>> Yes.

>> Tovo: Thank you very much.

>> Mayor Adler: You have a comment?

>> Rebecca, neighborhood housing and community development office. I want to provide some additional information with respect to subsidies. So, whereas when an individual comes in and is applying to utilize funding, whether that be the federal fund or the local funds, we will require that due to the subsidies, those mfis are reached at a lower level. It is my understanding this particular development is not requesting city funds, and so that may just assist in clarification on why those mfis are not being more at the 60 and 30, as you had referenced, mayor pro tem.

>> Tovo: Can I ask a followup question? So, earlier, there was a conversation about the financial benefits of participating in smart housing. I want to confirm, since the applicant is voluntarily participating, will they be eligible for the fee waivers?

>> Yes. It is my understanding they will be eligible.

>> Tovo: I think we heard before there's not an estimate -- we heard ranges of tap fees and other things. It would be helpful to know for my purposes, I would like to know what the estimated total dollar amount of fee waivers would be.

>> We can absolutely --

>> Tovo: And other associated benefits.

>> Yes. We can provide a list of what those fee waivers are, and then specifically, with the information available on this particular development, we can create the estimates for you.

>> Tovo: Great. The participation in smart housing would be handled through a restrictive public covenant?

[1:55:09 PM]

>> A restrictive covenant.

>> Tovo: Private or public? Would it be something the city is entering into?

>> It's a restrictive covenant.

>> Tovo: Public?

>> Yes. It is understood. It is not a --

>> Tovo: It is with the city, the restrictive covenant?

>> Yes. So, the difference there is this would not be a restrictive covenant between, say, a neighborhood association or the developer. This would be on file with the city of Austin, thus the monitoring, which I appreciate that question. The monitoring is through the city of Austin.

>> Tovo: Thank you, that's exactly why I asked that question. Are we hearing this today on second and third readings? If we are doing so, it sounds like there's not a public restrictive covenant already prepared.

>> Mayor pro tem, Rick Guernsey. This project or zoning change is up for second and third readings. Affordable housing is not a condition that we can make as part of this zoning. The applicant can certainly volunteer to provide affordable housing, but we cannot do inclusionary zoning by state law. So. That said, you do have affordable housing, but it's voluntary, based on what the applicant is offering, not by something the council could require with a zoning change.

>> Tovo: It was my understanding they're interested in entering into a public restrictive covenant. And so I'm just wondering --

>> Yes, ma'am.

>> Tovo: Whether that would be available for review before a final voting.

>> We have the restrictive covenant signed and recorded before a certificate of occupancy. That's typically when we have it done. We have the final unit count. It's when they're -- to build. So, we will know how many units they're going to be responsible for.

>> Tovo: Thank you.

>> Mayor Adler: I think the trick to that, on all these, is that we can't do contract zoning.

[1:57:11 PM]

So, we have to make sure it's real clear in the record that a voluntary move like that is truly voluntary. And that the approval is not being conditioned on fulfillment of that, as in this case, it can't be. So we don't want to do something that after the fact, somebody could come in and claim otherwise. Further discussion, Mr. Casar.

>> Casar: I have one more question for our folks at neighborhood housing, or the smart program. Thanks for coming back a few times.

>> No problem.

>> Casar: You mentioned in your initial comments you encourage affordability and a MIX of units. What do we do to encourage that?

>> We want to try to serve as many people as possible. And, again, we don't -- we just want to try to serve those that may have a house that's a little bit bigger than one or two folks. We have that option.

>> Casar: You said that we don't include a requirement for -- in the smart housing program for the affordability to apply, but, we encourage that, but not as a requirement.

>> Correct, yes, sir.

>> Casar: You may or may not know the answer to this question. Someone mentioned to me that we do require affordability on a MIX of units through requiring affordability on the number of bedrooms, or the total square footage, like the uno overlay, correct?

>> Correct.

>> Casar: In the smart housing program, we only require it by units.

>> Yes.

>> Casar: Okay, thank you.

>> Mayor Adler: Further question? Ms. Houston.

>> Houston: Yes, may I speak with the owner/applicant for just a moment? I have a question for you. Thank you so much.

[1:59:11 PM]

Is it my understanding that you do not own this property now?

>> That's correct.

>> Houston: Okay. And did we ask you, or ask somebody last time to do an educational impact study? Because there's so many schools close to you.

>> That was completed . . . I think prior to the planning commission.

>> Houston: Thank you.

>> Councilmember, I think that's in your backup material. It is. The statement from the independent school district indicated there is capacity at Anderson high and Burnett middle school based on the enrollment projections, the initial students from this development would fall within the target range the of 75 to 115% for Burnett middle school, and Anderson high school. The schools could accommodate the projected additional student population. The projected additional enrollment at the elementary school would increase to a capacity of 120% above the target range, assuming mobility rates remain the same. At 120%, the school and administration would need to discussion intervention strategies to address overcrowding. Now, the impact statement itself was designed as a tool to help you consider many things. Traffic, infrastructure capacity, compatibility with adjacent land uses and zoning. It was never intended to be the sole tool that you would use to make a decision to deny or approve the rezoning request. But, it was to be informative to let you know what happens, because school district boundaries can change. As boundaries change, then the capacity would drop, and then shift to a different school.

[2:01:15 PM]

>> Houston: And I appreciate that, Mr. Guernsey. It was -- I was never intending it to be used as a sing the single point. As we talk about projects, there's a cumulative impact. There's a traffic impact, there's a school impact. Instead of taking them independently, we need to look at them in a more holistic manner. That's why I was asking for that information.

>> Thank you.

>> Mayor Adler: Thank you. Ms. Gallo.

>> Gallo: This is another school question. Before you get too comfortable.

[ Chuckling ] So, when we asked that question of the neighboring schools as far as impact on enroll want,ment, how do you determine the number of children, students you were saying would go into the neighboring schools as a result of the project?

>> We rely on the Austin independent school district. They employ planners, some who used to work for

the city of Austin. They have rates they look at in different parts of the city and make the projections and provide them to us at the city of Austin. Right now, Austin independent school district only has the staffing capacity, as we mentioned, I think there was a request at previous meetings about other school districts. They run through those calculations. In the past, when a school hits the enrollment max, then they have areas, boundaries that may change to shift the children from going to one school to another. It's a very passionate issue. But, as a shift, they would make sure the school does not exceed the enrollment capacity it's designed for. They may also have the ability through an agreement with the city of Austin to add portability structures that may be able to increase the ability for that school to basically attain more students, a higher population. And we have that already built into our interlocal agreement with aid to provide those.

[2:03:18 PM]

>> Gallo: I guess the reason for my question is, when you look at something in this stage of the process where we don't have a site plan, where we know the makeup of the unit count and types of units, if this were to evolve into something predominantly efficiency or one-bedrooms with the codes that -- and regulations, and rules with the management companies and owners that have limitations to the number of people per bedroom, it could very well be a different project, than if it were a two and three-bedroom unit. When we talk about impact on the schools, I was just curious what the process is prior to even having a site plan where you know the unit makeup.

>> The planners at aid and city of Austin, if they know the specific bedroom count, they can provide a more accurate number. Usually, it is a general number based on number of units that are proposed, and then they would calculate from that what they believe would be the future enrollment for that school that would be affected. So, it's not a precise calculation, it's only based on a numeric count of units, generally. Like I said, the more specific information they have, the more detailed. If they're all efficiencies, it's more unlikely a larger student population.

>> Gallo: Okay, thank you.

>> Mayor Adler: Any further comments? Ms. Pool.

>> Pool: I can make a motion.

>> I'm sorry, I had one other thing to clarify for Ms. Tovo, it's very relevant to her questions earlier.

>> Mayor Adler: Please.

>> I apologize. I was trying to get her attention. I'm with the smart housing program. There was a graduating scale of the amount of percentage of errors given. For instance, during the minimum 10%, that gets you a 25% fee waiver.

[2:05:20 PM]

It's not going to be 100%. Versus, doing 40%, they can get the whole thing. Only 25% of the eligible fees will be waived.

>> Mayor Adler: Thank you.

>> Tovo: Thank you very much. And that helps me, also, understand. That was one of the considerations you took into account when deciding on 80% mfi. Thank you. That's very helpful.

>> Mayor Adler: Any further -- a motion?

>> Colleagues, this one is pretty tough. And I think it's indicative that it's tough that the developer and the neighborhoods haven't been able to bridge the communication wall. So, what I would like to do in the spirit of cooperative development is to offer this item for second reading only. I'm looking at the differences between what the developer is asking for, and what the neighbors asked for originally. And I'm looking at a mid-point in between the two. And I'll read those off here in a minute. But I just want to

frame it to say that I do this in the spirit of hoping that the neighbors and the developers will come together and actually have a sit-down meeting and negotiate that they weren't able to avail themselves of previously. And I will facilitate that meeting. So, what the developer has asked for is mf6, which is -- with an overlay of 60-foot height, because the height can go up to 90. Building coverage 70%, impervious cover 80%. There is no limit to the far. And there's no specific item listed for units per acre. Under mf4 is the 60-foot limit, with the 60% building coverage, 70% impervious cover, and the far is .75 to 1 with 36 to 54 units per acre.

[2:07:24 PM]

What I'd like to propose, and what my motion will be on second reading only is mf5, a 60-foot height, 60% building coverage, 70% impervious cover, 1 to 1 far. That would be on second reading only, so that I can help bring the parties together and see if we can find an amicable solution.

>> Mayor Adler: Can you say that again?

>> Pool: Approval on second reading only at mf5.

>> Mayor Adler: Is there a second to that motion? Ms. Kitchen is a second.

>> Pool: Then, I would just make a note that we all know that there's a corridor study that will be done soon for Burnett road. This is a long-range planning process. I met with the planning and development staff yesterday. They had a really good presentation on the plan, is and I had asked the staff to drop off the documents at everybody's office so you can see what's in the offing. The idea under imagine Austin is to scope development based on existing conditions, compatibility, and division of the city and the neighborhoods, all in a comprehensive planning process. And that's what will happen with the study, and the plan that has gone through the program. It hasn't started yet. And what that plan will do is show where the village centers are, where the density can be, where mid-range density can be, all in a sense of how the traffic flows, the schools, and existing conditions. So -- and I just wanted to mention that to everybody, because that planning process is uniquely important in the decisions that we're making on the density along Burnett road right now.

[2:09:33 PM]

So that we don't have to go back and retrofit. So, that's just an aside that I I wanted everyone to understand, that this is not a single, one-off decision. It will be in play with the study, the corridor study that will be underway shortly.

>> Mayor Adler: The motion is to approve this matter on second reading for mf5. Ms. Kitchen.

>> Kitchen: I just want to say that I'm supporting this on second reading because I think it's important to have another opportunity. It sounds to me like it will be done differently, with councilmember pool fill tating -- facilitating it. It's important they give this one last shot. What we've heard in terms of miscommunication, that's not real communication. I'd like to see the opportunity for them to have a chance to really talk. So, I think second reading is appropriate.

>> Mayor Adler: Any further discussion? Mr. Zimmerman.

>> Zimmerman: Thank you, Mr. Mayor. I'd like to speak against the motion. I guess for the main reason that we have two hours or so of debate on this on the first reading. I thought we vetted all these questions at that time. And I haven't heard anything that would change my vote, so I'll be voting against this motion, because I support the item as it's written.

>> Mayor Adler: Mr. Casar, then Ms. Houston.

>> Casar: I have a question. I'm not sure if this is for councilmember pool or someone from our planning staff. How many units will we wind up with at mf5 versus 6, which passed at first reading? More or less? I know the unit MIX probably plays into this, but.

>> Generally, in mf5, if you were to do all efficiency units, based on that calculation, 2.79 acres times . . . You could get 152 units at maximum, if they were all efficiencies under mf5.

[2:11:53 PM]

>> Mayor Adler: What about 6?

>> There isn't a limitation, it's set by the property owner, based on the development constraints of height, impervious cover, and parking.

>> Mayor Adler: All right, thank you.

>> Casar: Thank you. And so my comment to my colleagues about this is, I think that even though this is a down-zoning, technically, and Mr. Sackman's point is well-taken about entitlements, we are ultimately providing a benefit in the given market to allow housing use when there's a high demand there. I'm interested in seeing what benefit comes to the community. I think that putting housing on Burnett road, in itself, does bring some benefit to the community in that we're meeting a demand and a need for folks to be housed there. And I think it also helps prevent filtering up of some of those vintage units, that Ms. Gallo talked about. My brother lives in Los Angeles in apartments that are much more vintage than those on Burnett road, and he's paying the amount that you would be paying for granite tops in this brand new building. So, it is important that we take into account building some supply to prevent some of that filtering up-ward. But at the same time, I do have the concerns about economic integration as one of the great challenges our city is facing. However we can make sure some of those new units are available at 80% mfi, maybe not as deep as some of us want, but, I have lots of constituents that work for \$25,000 a year, their partner works in a part-time job, makes \$30,000 a year, would be able to afford a unit at 80% mfi. I can't support mf5, we lose another seven of the affordable units, going down from 34 in the proposed mf6 we passed on first reading.

[2:13:58 PM]

We would go down to somewhere in the 20s. I can't support on second and third reading an mf6, either. I'm not convinced those 34 units are enough based on what we're granting. I'm not sure I want to walk us backwards on that affordability number. So, I won't support mf5, but I wouldn't support mf6, either. I'd be open -- I'm open to mf6 on second.

>> If I could respond to that?

>> Mayor Adler: Go ahead.

>> Pool: That's not a set number, all right. The mf5 has set Numbers, but that is not -- [ chuckling ] -- what I was hoping would be to prompt negotiation between the mf6 high-end, and then mf5 does put a low end. But my goal with this motion, to pass on the second reading only, at mf5 was to prompt the negotiation that didn't happen previous ly, and also to give some support to -- we supported the developer with the mf6 on first reading, and there was no negotiation. And I would like to show support for the neighbors on the second reading and hope that there will be negotiation, which I will facilitate. My guess is that we will arrive somewhere in the middle between the two, but I don't know what that number is. I would like to have the air time for the parties involved to arrive at that sweet spot without us being any more directive. If that helps.

>> Casar: Mayor, if I may respond.

>> Mayor Adler: No, Ms. Houston.

>> Okay.

>> Houston: So, thank you. I'm going to be able to support mf5 on second reading. I still have a lot of concerns about the traffic.

[2:15:58 PM]

That area is very well-known to me, and I know people are going to say, you know, it's congested everywhere, but that's not an excuse. So, I will do the mf5, but I also want to know the amount of entitlements that we will be granting to this project, a dollar amount. Not a maybe this, maybe that. And so until I have exactly what that amount is, I won't be able to support mf6.

>> Mayor Adler: Mr. Renteria.

>> Renteria: I'm going to support this mf5, but, to tell you when it comes back to third reading, I would really want to see it closer to 300. You know, I'm really concerned that we're giving up an opportunity here of having affordable housing in an area that housing is needed. Especially rental housing, because the majority of Austin rents. And there's a lot of rental housing that's lacking. And to let people know that the more apartments that we build, it will lower the -- or stabilize the cost of renting an apartment. So, we're doing a disfavor by, you know, downsizing this unit. We need to start increasing our stock of affordable housing, and housing overall, because there's a great need. And that's what -- because of lack of affordable apartments, that's what's increasing the prices of these units so high where our people cannot afford it. So, I hope that we come back on the third reading, if you are close to the 300 units. Because if not, I won't be able to support the third reading for any less.

[2:18:02 PM]

Thank you.

>> Mayor Adler: I'm also going to support this motion to go mf5 on second reading only. You know, as we look at things that are happening in individual districts, and the deference that we give to councilmembers, I hear councilmember pool asking for the opportunity to be able to enter into discussions on this. And I would vote to provide those kind of opportunities, and that bandwidth to move that forward. I think we all need to maintain in mind as we vote things, ultimately, that decisions are made in any district impact the economy all over the city. But, in this regard, with this request, I'm going to support that request. Ms. Gallo.

>> Gallo: I have a comment. Before I do, I have another question, Mr. Guernsey, please. When you quoted the number of units for the mf5, you quoted the number of units if they were built out as all efficiencies. I think the initial plan for the project was multisize units. And so my question would be, is if you followed pretty much the plan that's being considered for the variety of units in this property, what would that relate to in the mf5? Because I think quoting all efficiency immediately takes any family occupancy out of the picture completely. And I doubt that that's the developer's intention.

>> So, if you did roughly a calculation -- and, again, there's always impervious cover and limitations of other standards, you're getting almost like 40 units per acre, make half one bedroom, half two bedroom. You're really talking about only 110 units.

[2:20:03 PM]

>> I'd just like to clarify, because the main driver of mf5 that makes design allowed to be feasible is the far, and not the units per acre. The far at 1 to 1 would allow 122,000 square feet of buildable. Currently at two to one, the rule is 85% efficiency due to having hallways and lost space. We would get below 100 units under mf5. The number of affordable units would go down to 16. And as I've stated prior, for this project to happen it cannot work in any other way than currently proposed. And I urge the council, through these eight months where I've conceded a number of times on the density to lower it to respond to the neighborhood's wishes and the council's wishes, we are truly at a place where the affordability is not enough. And it is a direct result of the density that the council has pushed me to limit

to. We've done this for eight months. I will say there have been hundreds of thousands of dollars spent in extending these contracts. I do not own this site. To have a site under contract for coming up on a year has drastically impacted this project's cost. And the result will be even less affordability. And the longer that this is delayed, the detriment to the north shoal creek renters which make up 57%, and have not seen new product in 30 years, they are the ones suffering by this delay. By proposing additional discussions when I have outlined what can work on this site. I have tried to concede as much as possible.

[2:22:04 PM]

This is where -- this is how it works. So, I would urge, as we propose to delay, additionally, at a zoning category that will now not allow any affordable units to come to this site, because the project will not work, that we consider the benefits that are proposed, the demand that this is meeting, the innovation that I am trying to incorporate with green space, with pool, with amenities that do not exist in multifamily. Allow me to provide that to these residents. It does not exist. But I cannot do it while continually making the concessions that the city is asking. Every day that goes by it is harder and harder to make this project the level that the north shoal creek neighborhood deserves. Thank you.

>> I wasn't finished.

>> Mayor Adler: That was your question, do you want to --

>> Gallo: I have some comments to all of this. I still would like to support the mf6. This is, I will remind everyone, a market rate property project. Who the developer has agreed to add affordable units to, and as we've heard both from the neighborhood association, and I've heard from leasing agents that work this area, we have a huge demand and not much supply. And as we've listening to the market rents, I think we were all surprised with how high they are. And the only way to ever address being able to pull market rents down is to increase the supply of properties. It's supply and demand that affects the affordability in this community. Our mayor gave a wonderful state of the city address several days ago, and in his speech he mentioned we need 100,000 units in the next ten years.

[2:24:06 PM]

That's 10,000 per year. We have an opportunity here in a traffic corridor to build some more housing. If we do the mf5, it reducing the number of units that would be available by half. It also reduces the affordable units to be a lesser amount. We talk about wanting to build our communities in live and work areas where people can work in an area and live close by. There is a demand for that area, and the population that wants to live there has to commute to those. I hear over and over again that we need the supply. And this is a traffic corridor. This is a down-zoning from C. We talk about traffic. If it were developed as a commercial site, the traffic would be much more substantial than as a multifamily. So, I just have a real hard time supporting anything other than what appears would work on the property, and supply additional units which are in demand in the area. So, I would support mf6. I don't know at this point in time, if I can offer a substitute motion for mf6.

>> Mayor Adler: You could move to amend the motion. The motion right now is to approve mf5 on second and third --

>> Pool: Second.

>> Mayor Adler: On second reading only. You know, I think that goes to the nature of it. I think you want to vote no. If there's a no vote, we'll come back with an alternative.

>> Gallo: Okay. The question is, if the no passes, then I haven't voted for the zoning at all, correct?

>> Mayor Adler: I'll entertain an additional motion.

>> Pool: I'd just like to reiterate. Again, this is not prescriptive. It is an attempt to try to balance the scales to get the negotiations to move forward, which I will guide, direct, and facilitate.



[2:26:09 PM]

>> Casar: Mayor.

>> Mayor Adler: I'm sorry, Ms. Houston.

[ Laughing ]

>> Mayor Adler: Ms. Houston, and Ms. Troxclair, then Mr. Casar.

>> Houston: Thank you, mayor.

[ Laughing ]

>> Mayor Adler: Sorry.

>> Houston: I feel like Casper the ghost down here times.

>> Mayor Adler: Ms. Troxclair hasn't talked at all. You're doing better than she was.

>> Houston: I just want to recognize, to the owner, I appreciate the frustration that you are expressing. Over the last eight months. I've only been here three months. This is very new to me. We're trying to do the best we can, not only for the city, but for the neighborhood. So, I ask you to be a little patient as we try to figure out how best to make this workable for all. Thank you.

>> Mayor Adler: Ms. Troxclair.

>> Troxclair: I just wanted to say that I am . . . I think that it is important that the council make decisions based on the information that is in front of us, and that's been presented. I certainly understand councilmember pool's interest in wanting more time to facilitate conversations between the neighborhood and the developer, but I am not going to be able to support making a decision that would affect -- significantly affect the zoning and the kind of project that could be put on this site simply as a negotiation tool. I think in the history of Austin, we've seen this competition between neighborhoods and developers. And the way that council has Austin handled these cases that has led to neighborhoods starting as far one way as possible, and developers starting as far the other way as possible, knowing that after a lot of fighting, they may end up somewhere in the middle.

[2:28:10 PM]

And I think it would help those negotiations if we give time, but don't necessarily make arbitrary zoning changes using those arbitrary zoning changes as a negotiation tool. So, I'm not going to be able to support the zoning change to mf6, because I don't think it's compatible with the uses that would be appropriate in my opinion for that site.

>> Mayor Adler: Mr. Casar, did you want to talk?

>> Casar: Just being careful here. So, I just wanted to briefly tell the council why I would be voting no on the mf5 on second reading. While I understand that -- I appreciate this might need more cooking, and more conversations. It seems to indicate that those cooking and conversations might be going in the direction opposite of what I would need to get to approving this on third reading, an increase in the number of affordable units. It would be very difficult under mf5 to increase the affordable units, or commit to making sure that some of the smart housing, affordable unit are available beyond the one bedrooms. It seems that without there being some information about that, the smart housing units would tend to be efficiencies and one bedrooms, which isn't exactly the kind of benefit I'm looking for. I think there could be more time for this cooking, but, I want it to go in the direction of being more economically integrated, more economically integrated project, not less.

>> Mayor Adler: Sorry for hitting my microphone.

>> Zimmerman: May I call the question?

>> Mayor Adler: It's been moved and debated, is there a second to the motion to end debate? Ms. Troxclair seconds the motion. All in favor of ending debate, raise your hands.

[2:30:11 PM]

Those opposed? Two-thirds vote required, we don't have it. Did you want to finish debating, Ms. Kitchen?

>> Kitchen: I wanted to remind myself, I guess. Hopefully we'll be at a point where we can make these decisions in some kind of context, because we're not. You know. And we do have some context here in what councilmember pool raised, which was the fact that there is a corridor study that's going to be going on for this area. But, we don't have the results of that. We also -- I know we'll be working as a committee, and also as a council, I hope, I'm sure, working towards some understanding of what our target is for affordable housing. But we're making these kind of decisions in a -- you know, in a vacuum. So, I'm just making that as a point that I'm looking forward to as we move forward. You know, it's going to take some time, of course. But I'm looking forward to us getting to the point where we're talking about these kind of decisions in light of our goals, and our targets. That will help us, I think. At this point, I'll just briefly reiterate what I said before. I don't think we should go beyond second reading, because there's a number of different concerns that we all have. The affordable housing component is one concern. And to me, the other concern is the process. I would like to send the message that we need to have real communication between our neighbors and our developers, and I would hope that that would mean that we would get somewhere that we had some conclusion, so.

>> Mayor Adler: Thank you. Any further debate? Seeing none, we'll move so a to a vote on number 12, second reading approval of mf5. All in favor, please raise your hands. One, two, three, four, five. Those opposed? One, two, three, four, five. So the vote -- of those voting, I must have miscounted.

[2:32:15 PM]

Was there an abstention? Okay. Those in favor of the mf5 on second reading, please raise your hand. I have five votes. Tovo, pool, kitchen, me, and Houston. Those opposed, raise your hands. I have Garza -- [ laughing ]

>> Mayor Adler: I'm sorry, sherry. Gallo, Zimmerman, Renteria, Casar, and troxclair. It's defeated. It goes down. I'll entertain a second motion.

>> Casar: I'd like to move that we approve what we approved on first reading, on second reading.

>> Mayor Adler: Mf6 on second reading, seconded by Zimmerman. Is there any debate or discussion on this? It's second reading only. Ms. Garza.

>> Garza: I guess I want to understand why we're just going second reading, because I feel had the same conversation the first time, and everybody said we were going to come together and facilitate, and get an agreement. And it hasn't happened. And we're constantly hearing about these projects being delayed and delayed, and whether it be through our permitting process or decisions that this council makes. And I absolutely respect the neighborhood's concerns and traffic concerns, but if this -- and I could be wrong, I could be confusing this with another zoning case. But if this stays commercial, the traffic's going to be even worse. If this gets used for commercial purposes, the traffic's going to be even worse. It was hard for me to be sympathetic to concerns about, this isn't as close to a bus stop. This is a full quarter mile. That's close. In district two if you're a quarter mile within a bus stop, you're really close to a bus stop.

[2:34:20 PM]

I think it's in line with -- we need more housing as councilmember Gallo said. It's sometimes -- you know, a lot of times, it can be simplified to supply and demand. And if we delay a project like this, then we can't stop people from moving to Austin. We've created this wonderful city that people want to live in.

And we have that city that people want to move to. And if they can't get this project because it's delayed, then they're going to go move into -- nothing against moving into district two or three, but, it exacerbates the gentrification problem we have there. I hope we can approve this on second and third reading.

>> Mayor Adler: Mr. Zimmerman.

>> Zimmerman: Point of inquiry. If the council voted on the amendment on the floor for the second reading, for mf6, the motion that's here, could the council come back and do another motion for third reading after we vote on the motion?

>> Mayor Adler: Yes.

>> Zimmerman: We could? Okay.

>> Mayor Adler: Mr. Casar.

>> Casar: In response to Ms. Garzas comment, that point is very well-taken but I would vote against second and third reading. And I think that that would result in us getting only on second. From my feeling on the dais. My reasoning being, if, in the uno overlay and other places we can get an idea of making sure the affordable units aren't just efficiencies, that plays into my calculations. While I do appreciate the utilization of smart housing program, I really want to understand what we would be getting with this project. And I think that some questions like that could get answered between second and third reading for me. What that 15% -- correct, 15% affordable units would really be. And I understand that MIX of units is not approved right now for the project, but I would like to get a better handle on what that would actually look like, and how many affordable units we might get if there's further conversations, within Ms. Pool's office.

[2:36:27 PM]

>> Mayor Adler: Thank you. Ms. Gallo.

>> Gallo: You bring up some good questions, but I want to make sure if we delayed the third reading we could get answers to those questions. One of the things I think I heard is that conditional overlays that require a certain component of the affordability cannot be done as part of zoning. So, I guess, if we could get an answer to your concerns, is it possible to get anything additionally between second and third reading on a zoning case to answer his concerns?

>> As part of a zoning case, we cannot condition the zoning case to include affordable housing. And if the applicant would like to offer more, or change the offer, that certainly can be brought forward and you can discuss that. But, with a zoning case, Texas does not allow inclusionary zoning, which would allow the council to require a certainly a certain number of affordable units.

>> Casar: So what you're saying though is that the applicant could voluntarily let us know how many affordable units they intended to put in any given project, and they could let us know more or less, or commit to there being mixes of affordable units at different sizes?

>> Yeah, on a voluntary basis. We could not consider --

>> Mayor Adler: He certainly could. But, make sure that the reason you're postponing it, and wanting the decision is not to wait for that information, because then it begins to sound like a condition, which would be improper.

>> Casar: It's not as a condition. As a point of clarification, I'm trying to understand how many -- the community benefit of having housing here seems clear to me. There's also community benefit to there being affordable unit in this project.

[2:38:28 PM]

I don't know who that benefits, families, or just folks in efficiencies.

>> Mayor Adler: We don't -- obviously, we'd have a great community benefit if it was all affordable housing, but we can't make that part of our consideration. That's a community benefit in this context that we can't take into account in terms of whether we grant this or not, because then it begins to sound like, someone might argue that if he gave more affordable housing, we'd have a better chance of getting it approved. We don't want to go there. That shouldn't be the trade off he's being asked to make. We can't ask him to make that.

>> Casar: Understood.

>> Mayor Adler: That's all I'm saying.

>> Mayor, council, I believe the applicant clarified that earlier. He might want to reiterate again.

>> Mayor Adler: Mr. Renteria.

>> Renteria: I wanted to let people know the reason I changed by vote was when I learned that mf5 was only going to allow 150 -- how many, 55 units? I was really concerned, because, you know, that's nowhere near the 300 units that's needed to complete this project. So, that was one of the reasons why. Because I really want to see this project come to fruition, and that's something that I'm really passionate about. And, you know, like my colleague Sheri Gallo said, that, you know, it's the supply and demand. We don't have that many supplies. And the demand is going to be there. And the rental costs is going to increase and increase. So, we need to give, you know, the citizens of Austin a break on the high cost of rental.

[2:40:33 PM]

So, that's why I am going to be supporting mf6.

>> I'd just like to address, I think it's important as this is being considered. The lower density and more sustainable affordability in the product type that is being demanded do not coexist. For eight months I've been appealing city council and the neighborhood by lowering density. And now we are at a point where the 91 units that I wanted to provide as affordable housing are down to 24, and mfi 16. In terms of the unit MIX, as the density is decreased, it disallows me to be able to provide a wider range of unit MIX under that affordability, larger units under that affordability, because the council is also pushing me to cut down on my overall units. I'm in a position now, and I just want to clarify, where what's being proposed, what has been brought in these eight months to today, and then now what is being addressed cannot be achieved unless the council and the neighborhood agrees to allow the density so I can provide more sustainable affordability. That was my intention coming in, but the council's recommendations have drastically decreased that. I just want to -- as we're voting and looking to go to third reading, on February 12th, when the first reading happened, I mentioned to city council I have gone as far as I can go. There have been extension payments to the contract in the last two months to allow me to wait to hear what the feedback today would be. There have been civil engineer calls, architect calls to provide the city council with what they need to make this decision.

[2:42:37 PM]

I will now have to go back and reevaluate how much is the additional cost to get to the next reading, when, you know, maybe we'll have a decision whether it's mf6 or mf5. We are on the brink, as I mentioned two months ago. This is not 34 affordable units versus 50, it's 34 or 0. That's where we are right now. I've tried. I've come in with the affordability prior to any recommendation or requirement from any of the city. I thought coming in showing that I was aligned with the city to provide affordability that it would be taken that I am looking to benefit this neighborhood. But I do not know if on recurrent concessions that I've made in the last eight months, if going and waiting until the third reading will allow this project to exist. And I just want that to be considered with this decision.

>> Mayor Adler: Let me ask you a question. You've made certain concessions with regard to far and height, what if you don't make those concessions, could you increase the number of affordable units?

>> Yes.

>> Mayor Adler: Okay. Maybe you make that part of your conversation.

>> It's --

>> Mayor Adler: Any further discussion? Okay. No further discussion. The motion on the floor is second reading only on mf6. Any further discussion on that? All in favor of mf6, second reading only, please raise your hand. Kitchen, Gallo, Adler, Zimmerman, Casar, and troxclair, and Garza. That's seven. Those opposed, raise your hand. Tovo -- are you voting, Leslie? Okay. Tovo, Houston, Renteria.

[2:44:37 PM]

The motion passes second reading, mf6.

>> Zimmerman: I'd like to make a motion to approved mf6 on third reading. You said that would be in order for me to make that motion to approve on third reading.

>> Mayor Adler: I misunderstood. I misspoke. But I'm going to do that because I did misspeak. It's been approved on second reading. We'll take a motion to approve it on third reading, as well. Can I have a subsequent motion to approve on third reading?

>> Mayor, the city code requires that we have three readings on three separate days. However, if an item --

>> Mayor Adler: I'm sorry?

>> If an item receives seven votes, it may occur on more than one reading at a time.

>> Mayor Adler: I don't want -- I misspoke, okay.

>> Casar: My motion.

>> Mayor Adler: I voted in favor on that motion. I'm going to ask for a reconsideration. Is there an objection to the reconsideration? I voted in favor, I'm allowed to --

>> I'm not understanding what we're doing. We passed on second reading.

>> Mayor Adler: It passed on second reading, but I said that if -- I thought what I said was if it didn't pass -- that motion did not pass, then I would then -- it would be in order for someone to make the motion to approve on second and third.

>> But it did pass. It passed.

>> Mayor Adler: Right. But that's how I heard the question.

>> Okay.

>> Mayor Adler: It's apparent people around me heard my answer to that question differently, or heard the question that was asked of me differently. There was an expectation at the end of that vote there could also be a vote on third reading.

>> He can still bring the vote on third reading.

>> Mayor Adler: It changes the vote required, and that follows from my mistake in terms of answering his question and misunderstanding. I'm asking to go back to the place where he asked the question so I can clarify so people are able to vote based on what the rules are. I asked for a motion to reconsider, is there a second to that?

[2:46:40 PM]

>> Casar: I'll second.

>> Mayor Adler: Mr. Casar, is there an objection? Hearing none, we're back to where we were before. Here's the question. The motion in front of us, mf6 on second reading is the motion in front of us. If someone wants to make an amendment to make it second and third reading, I'll take it that way. It has

to happen in one vote. We can't vote second and third without raising the bar.

>> Zimmerman: I make the motion reapprove on second and third.

>> Mayor Adler: It's been amended, the mf6, it's approval not just on second reading but sec and third reading both. Is there a second to that? Mr. Renteria. Any further discussion? Ms. Tovo.

>> Tovo: I want to ask our staff for a quick clarification. This motion would need to pass with seven votes for it to be successful on second and third.

>> That's right.

>> Tovo: If it receives fewer than seven, it passes only on second.

>> That would be correct.

>> Tovo: Thanks.

>> Mayor Adler: Okay. Any further discussion?

>> Casar: Mr. Mayor, a clarification. If I vote no, on second and third, would my motion on second still stand to be voted upon, or --

>> Mayor Adler: It's in motion to amend.

>> Casar: Correct.

>> Mayor Adler: The mf6 motion to be an approval on second and third reading. If that -- go ahead. If that amendment would be defeated, then we would be back to the motion to approve it on second reading only.

>> I -- okay.

>> Mayor Adler: I'll do that one more time. The motion with the amendment in front of us is to the mf6 motion. It's to amend it so that it is an approval not only on second reading, but on both second and third reading. If this amendment fails -- if it passes, the amendment passeses, we're voting on the main motion, to approve mf6 on second and third reading. If the amendment does not pass, then what would be before us is the motion to approve mf6 on second reading only.

[2:48:46 PM]

Any discussion on the amendment, further? So the amendment is to change it from second reading to second and third reading. All those in favor raise your hand. Garza, Gallo, Zimmerman, Renteria, and troxclair. Those opposed to the amendment, raise your hand. And it's Casar, Houston, Adler, pool, kitchen, and tovo. It's 5-5, the amendment fails. That leaves us, then, just with the motion to approve it, -f6 on second reading. Did I miss somebody's vote? Whose vote did I miss? Let's try it again. All those in favor to the amendment to change it to second and third reading, not just second reading, raise your hand. Okay. No. So --

[ laughing ]

>> Mayor Adler: I'm too busy counting votes. So, it is 5 still. So, those that are not in favor of the amendment to add second and third raise your hand. Okay. So maybe I didn't put myself in that group before.

[ Laughing ]

>> Mayor Adler: That's six. The amendment is defeated. We are now at the motion to approve mf6 on second reading only. Is there any further debate? All those in favor of the motion of mf6 on second reading only raise your hand. And that would be Garza, Gallo, Adler, Renteria, Zimmerman, Casar, troxclair. Those opposed raise your hand? The remaining people on the dais, four. The vote is 7-4. You were --

>> No jcr right. I'm sorry, I just have a question.

>> Mayor Adler: Your question.

>> My question is, now that we passed it on third reading -- I'm sorry, second reading, can we set a time certain for this to come back for a third reading at some point in the near future?

[2:51:02 PM]

>> Mayor, our understanding of the council's desire is that we only do zoning on the second Thursday. It would be May 14th unless directed otherwise by the council.

>> Mayor Adler: Okay. Ms. Garza.

>> Garza: I would like to make a motion that we break that rule and have it back at a sooner council meeting.

>> We would be prepared to have it next week if you like.

>> Mayor Adler: That puts us into the Austin energy agenda. So maybe two weeks. What would the two weeks be? Do we have a meeting on that --

>> We don't.

>> Meeting in two weeks.

>> Mayor, I don't believe there's a meeting on the 30th. There's no meeting scheduled for council on that day.

>> Mayor Adler: No meeting scheduled.

>> I believe there's a meeting May 7th, but that puts you three weeks out.

>> Mayor Adler: What's your motion, Ms. Garza?

>> Houston: Did somebody second? I have a question.

>> Mayor Adler: One second, we have to get what the motion is.

>> Because public hearing is closed, I think I would prefer -- my motion would be on the next council meeting.

>> Mayor Adler: It's been moved to set time certain for this to come back next week with a public session closed. Is there a second to that motion? Ms. Troxclair.

>> Would you like that on your 10:00 regular agenda?

>> Mayor Adler: I understand that to be the motion, except that I think that the council meeting next week is going to be set for 11:30 so that we don't have people waiting here for the council meeting while we're doing the Austin energy. It would be whenever the council meeting would be set. Ms. Pool.

>> Pool: I appreciate councilmember Garza wanting to move this forward, but I will say that as I have offered to mediate and facilitate the conversation between the parties, I need to look at my schedule. I'm pretty sure this close to next week, also being vice chair of Austin energy meeting, I don't think even without asking the parties if they're available, that that will be able to happen.

[2:53:13 PM]

We don't have a meeting set for the fifth Thursday. May seven it's possible we might be able to pull something together, I don't know. I know for sure I would not be able to have something back by next Thursday, personally.

>> Houston: Mayor.

>> Mayor Adler: Ms. Houston.

>> Houston: My question is to staff. Will we be able to have the information regarding the entitlements of the fee waivers and the cost of that by a week?

>> We can definitely make that happen, councilmember.

>> Mayor Adler: The motion on the floor is to set this for time certain on third reading for next week on the council agenda. Any further debate on that? All in favor of that motion raise your hand. It is everyone on the dais except kitchen, pool, and Houston. Those opposed? And Tovo, you rethought? Tovo -- and those opposed are Tovo, kitchen, pool, and Ms. Houston. 7-4, it's set for next week. The next item that we have as we move forward is item number 18. Ms. Tovo, would you please take the chair? I

need to recuse myself on this now.

>> Jerry, case c14-2014-0096, the wild horse commercial tract 1, for a tract located on the south end of U.S. Highway 290, between 130. The requested zoning is for tract 1 to commercial highway, a 15.5-acre tract.

[2:55:16 PM]

For tract two, to planning and development, the majority of the track. And for a tract 3, from residential to highway for 11.63 acres. Staff recommends approval with the conditional overlay, uses prohibited, campground, commercial center, drop-off recycling facility, pawnshop, vehicle storage, guidance, residential treatment, and transitional housing. In addition, on tracts one and three, a conditional overlay would limit trips to 2,000 per day. On tract two, currently part of the wild horse, a two-thousand acre plot approved in 2002, the existing agreement would remain in place. The plot would have no change to it. The only thing we're really doing with zoning is bringing into ch. The proposed project is a beer distributing warehouse currently under review by the staff, near approval. That is being done but the butler family. The zoning and plotting commission recommends approval.

>> Houston: Thank you. I understand the distributors. I think it's critical that they get closer to 130 so they are able to not have their trucks on ih-35, which is a great thing I support. My concern is about the lack of any kind of jobs on that site. All the jobs will be bringing people in from other districts, other counties. And so because it's in district one and the lack of economic opportunities in trick -- district one is blatant, I have to talk about that, as well. This is a concern to me on any development in the area. With that being said, I can't do it.

>> If I may, it's the millercoors.

[2:57:18 PM]

>> Houston: What's brown? Brown's already in the district. I thought it was Budweiser.

>> I believe this one is millercoors.

>> Houston: Whatever it is, it's not allowing any jobs in the district. That's the point.

>> Tovo: Councilmember Zimmerman.

>> Zimmerman: Thank you. I'd like to move that we approve item 18.

>> Tovo: It has been moved by councilmember Zimmerman, and seconded by councilmember Houston. I have a few additional questions, I guess. Or comments. I share councilmember Houston's concerns. I think you raised some very interesting concerns the other day, councilmember Houston and how it furthers the goals. There were other planned uses on this tract that may include a grocery store. Is that accurate?

>> Yes, we have a 125-acre tract. The warehouse, a very large one, will not take up the whole tract. There will be a portion of it that will be remaining. One idea being tossed around is a grocery store. I believe that has not yet been decided or finalized by the property owner.

>> Tovo: Was there involvement with community groups active in this area? I know it's not immediately adjacent to, say, colony park, but, they're very active. And there are others that have been voices and advocates for more economic development opportunities. Were they involved at all with the developer in talking about these uses, and was there an opportunity there? I don't want -- while we're considering the zoning and exercising our zoning capacity, I would like to make sure those conversations have happened, or people had an opportunity to participate in them and to really talk about how this particular tract and this particular zoning might serve some of the community's goals for the area in terms of economic development.



[2:59:20 PM]

>> To the east of the property, you have basically the city of manor. We didn't hear from anybody. Most of our discussions have been with the applicant and adjoining property owners of the remainder of the plot. The cos we worked on are conditions the staff requested of the applicant, and they agreed to them. So, at this case, you know, while the plot is largely undeveloped, at this point we have not heard from anybody, frankly, on this case. It's mostly been an internal discussion between the applicant, adjoining property owner, and the city.

>> Houston: The closest properties where there are people are Harris branch and over off Parma lane.

>> Tovo: Developer association.

>> Houston: That's a far distance. Harris branch is fairly close.

>> The people in manor are the closest.

>> Houston: Well, yes, but it's in Austin. I'm talking about people in Austin that are closest to it.

>> Tovo: It looked like the applicant may have some additional information to offer.

>> They were here to answer any questions. They do not wish to make a presentation.

>> Tovo: We'd welcome your feedback in you've got any.

>> On behalf of the applicant, we sent out a notification and looked around. There were no civic associations to get in contact with. We spoke to one gentleman who has property across sh130, he was just curious about the use.

>> Tovo: Thank you. Are there any further questions or comments? All in favor? It is unanimous on the dais with mayor Adler recused.

>> All three readings.

>> Tovo: Councilmember Zimmerman, was that your motion to approve on all three readings? Was that your understanding, councilmember Houston?

>> Closed the public hearing.

[3:01:21 PM]

>> Tovo: That was part of your motion, as well?

>> Zimmerman: Yes, thank you.

>> Thank you.

>> Tovo: Welcome back, Mr. Guernsey.

>> Mayor pro tem, I think the next one is 21.

>> Tovo: That's right. Do you have a staff presentation first before we hear --

>> I do, I believe you have at least two speakers I'm aware of, maybe four. Item number 21, 0167, for property located at 13007catero, a zoning change from a residence district to neighborhood commercial mixed-use conditional overlay, combined district zoning. The property itself is about 2.38 acres in size, currently surrounded by sf4a zoning, residential zoning to the north. And to the east. It adjoins some property in the county, and interim sf4a zoning to the west. It does have some frontage on two streets. And the planning commission, or the zoning and plotting commission recommendation was to grant the staff recommendation. There's a unique condition that the property owner did make a request for. February 18th, they asked that a conditional overlay be included on this particular case, that a wall or fence be prohibited within 50 feet of the drive and lane. This is in an area assigned as a landscape easement held by a third party, which I believe is the association of the homes that are further to the north. The commission did approve of the zoning, or recommend the zoning with that additional condition.

[3:03:25 PM]

And also adding a new condition that would prohibit off-site accessory parking. The property right now is an undeveloped tract. And it's proposed for future development for a retail mixed use-type project. There were several property owners that adjoin this property that voiced opposition, and would have signed a petition in opposition to this case. However, since this property has interim zoning interim zoning does not have a property that can be petitioned that would require a supermajority vote of this council. Because it's the initial zoning. Had this been actually a rezoning from permanent zoning to permanent zoning, in this case, if it was going from sf4a to the Irmu, then a petition right certainly could be exerted. We would look at it, and if the land area representing 20% of more of the properties, it could require, then, the supermajority vote at third reading. That does not exist in this case, but, certainly, if there are petitions in opposition, then you know there are folks opposed. At this time, I'll pause. And we can let the agent come forward. And those that are in favor and against the case state their case.

>> Tovo: Council, are there questions for Mr. Guernsey before we move on to the applicant? All right, Ms. Glasgow, you are our first speaker. Is Mike Jutter in the hall? Thank you. Ms. Glasgow, you have six minutes.

>> Thank you.

[3:05:41 PM]

>> Good afternoon, Mayor Adler, Mayor Pro Tem Tovo, and councilmembers. I'm Alice Glasgow representing the property owner, and I stress, property owner. And that will become evident shortly, as soon as my collides slides are loaded up. I thought I'd introduce myself and wish you a good afternoon while the slides are being loaded up. The subject project is highlighted in red on the slides. And the area is zoned interim residential. The city annexed this area in 2007, and with the annexation, the properties with an approved subdivision adjoining our property got interim single-family for a zoning, because they were small lots. And my clients' property got zoned interim rural residential. And you can just really build two homes, because your requirement is to have one acre for each unit. Our request is for Irmuco, neighborhood commercial, because in listening to your last case, councilmember Kitchen raised a concern about not having a context. Well, the imagine Austin plan provides a context for this case. The context being that in the concept that the imagine Austin plan identifies this project as being -- I'm so sorry. The language there. As being located along an activity corridor, east Howard Lane. Those are intended to allow people to reside, work, shop, and access services. So, as we've been hearing your discussions about services that are needed for residents, this is a good example where the property is 2.3 acres.

[3:07:42 PM]

It's at an intersection of an arterial and a neighborhood collector, which meets all your planning principles about location, neighborhood commercial is appropriate as such a location. It's also appropriate in serving the needs of the residents who live here currently, and will also live here in the future. You received a letter of support from the home builder, who will be developing approximately 584 lots at the terminus of the drive, which will equate to approximately 1100 residents within the next three years. And they would like to have a place where their residents can walk, live, and work, so they can walk and get a cup of coffee, so kids can ride and get an ice cream cone. Or just go have some coffee and drop off your laundry, or get your nails done, or get your hair done. So that's the kind of service we'll provide. The condition that the planning commission, the zoning commission added, which is to prohibit a fence, at our request, is that there is an interesting -- I'll just flip this forward. I think I may

have gone one too far. To give you a -- ooh. I may not have had the slide in there that I needed to use. The -- this slide shows you the conterra side. The firsts 50 feet of the property is an easement that was given to the developer of the subdivision. My client, Mr. Jeter, is the property of the land un-incumbered by the easement, and the owner of a property not by the easement. This is the way the property looked on April the 8th, before a fence was constructed. This was the same property. This was conterra drive. There's no fence. This is the landscaping that is in the area that was constructed by the conterra developer for the homes in the back to provide an aesthetically pleasing entrance.

[3:09:55 PM]

This is the fence that was constructed on April the 9th before the city council hearing to prevent -- to have a grandfathering fence, which basically hides the property in the back. The fence is -- my client owns all of the land, including the easement that the developer has. So, we asked for a fence so that we would not be in this situation. We realized that it's a private matter regarding the easement between the easement holder and the property owner. The city council, in other cases in the past has approved other cases where you had a zoning change. The zoning was appropriate. The law department has always as advised, it was sound advice, where you have a dispute from either a property owner or a leasee and the landlord that the separation ought to be considered as it relates to the land use. Is there appropriate -- is the land use appropriate, and therefore council should zone it appropriately. The matter should be handled separately, especially if it's a private dispute, agreement, restrictive covenant, then that should be handled between the entities disputing that particular agreement. So, the dispute here is the fence. And we would ask that you prohibit the fence as recommended by the zoning and platting commission so that the property owner and the person holding the easement agreement can work together to amicably reach an agreement that would meet both of their needs. And if I can have a moment to go back to this slide here, as you can see, that is the entire property. Again, the star shows the development we're going to have, 1100 homes within the next two to three years, where you're going to have residents who would like to walk over to this area where they can have convenience.

[3:12:03 PM]

So, I would like to pause there and answer any questions you next.

[Buzzer sounding]

>> That's very loud.

>> Mayor Adler: So that I can make sure that I understand, your client owns property that's separated from the road --

>> Yes.

>> Mayor Adler: With an easement owned by someone else? Is that correct?

>> Yes, mayor. Mayor, if you'd give me a moment --

>> Mayor Adler: The easement that's owned by someone else, digging a hole person, the -- the easement owner has the dominant estate over the owner, the priority rights over anyone else.

>> My understanding in reading the document, it's titled as a landscape easement and within the landscape easement it allows them to have landscaping -- there is the slide -- that's the exhibit that shows the green area is reflective of the 50-foot easement it says a landscape easement that gives them permission. They don't own the land. I use general terminology. I apologize, mayor. Not legal terminology.

>> Mayor Adler: That's all right.

>> The document gives the holder of the green area. He's not the land owner. My client is the land owner. He owns both the green and pink area.

>> Mayor Adler: So the person who owns the green area has purchased or owns the unrestricted right to construct repair and replace landscaping, but has the unrestricted right to put on to that green area screening and has the unrestricted right to put on to the area fencing? Signage, monuments? Those things? Is that right?

[3:14:04 PM]

>> Yes and no. And the no has to do with the purchasing. My understanding from my client, who purchased the property from the previous owner, is that there was no purchase involved, other than an agreement.

>> Mayor Adler: He has the vested legal rights, the owner of the property in green --

>> Correct.

>> Mayor Adler: -- Has the legal right to put on to that green area unrestricted right to install land -- land scale, screening, berms, trees, fencing, monuments; is that right?

>> That is correct, Mr. Mayor.

>> Mayor Adler: When your client purchased the property in pink or purple, did that person know that they were buying property that was back behind property that had the right to -- unrestricted right to put up fencing and landscaping and berms and that kind of thing?

>> Yes, my client purchased the property that is in both pink and green. He purchased both of them. When you --

>> Mayor Adler: No, no. When he purchased the pink property and the green, he doesn't really have a lot of rights on the green property.

>> Correct.

>> Mayor Adler: Someone else owned considerable rights in the green area.

>> Rights for the landscaping, yes, mayor.

>> Mayor Adler: Fencing, berm, screening, all that stuff.

>> Right.

>> Mayor Adler: How long ago did he purchase the property?

>> About a year ago. And yes, you was very much aware of the landscape easement. We're not disputing that at all. We're not disputing that he knew of the existence of -- he just -- he believed in the goodness of his heart that the developer would be amicable in not fencing him in, basically. So, yes, he did understand.

>> Mayor Adler: Thank you.

>> He knew that was in place.

>> Mayor Adler: Thank you. Any further questions? Ms. Pool.

>> Pool: Could you talk a little bit more about the fence has now land locked your client, the owner of the pink property.

[3:16:07 PM]

What's the entry and exit availability with that land now that the fence is up?

>> We don't have any. It's completely all fenced in, all around except to the east of the property because there's a detention pond, detention water quality pond that the city maintains because it's a residential water collection pond it prohibits any fencing around it to inhibit any water flow. Otherwise everything else is completely fenced in. There is a little gate there but that's not wide enough to allow to you move in a lawn mower.

>> Pool: With that fence up is your client able to access, develop the land that's in the pink?

>> They would have no negotiate. Right now it's all fenced in, completely fenced in as you saw in the

slide. You have copies of the photographs I left in folders with your staff. I'm not sure if you have them but I can gladly pull them up again. That is correct, completely fenced in and the reason we're asking that you prohibit a fence, realizing that the city does not enforce that, and I draw upon other cases in the past, where previous council has either approved a zoning change -- because the zoning was appropriate, but there was a dispute between either a landlord and the lessee. An example I have was a case for cs one zoning in the shopping center, one of the tenants in the shopping center popped the zoning from cs to cs 1 because in his lease agreement there was understanding there would never be any change in zoning that would allow the sale or consumption of alcohol on-site. The slice from the law department for that case was that you separate the two, the land use versus the dispute of the agreement between the two entities, the owner of the property and the lessee. It's very similar. So when I look at this case, I look at it in the same situation as we all have looked at cases in the past, where they had been either -- did restriction for the planning commission, where they look at plats and it either prohibits a duplex, for example, and in that case or it prohibits height of a certain -- you know, buildings over so many stories, where then in those cases the advice that we were given by the law department, and they still do swear that you separate the private dispute agreement, which the city does not enforce, which is -- that's a civil matter, versus the merits of the rezoning.

[3:18:47 PM]

That's what I'm asking here, if you can separate the merits of the zoning. The prohibition of a fence is appropriate and if attached an ordinance where the city council in the past did approving a zoning case on exposition boulevard and prohibited a fence along exposition boulevard. So the legal tool is there to allow you to do that. Now the question is, is this dissimilar to those cases that have been approved with conditions in a zoning change that were contrary to a dispute in an agreement between two entities? That's the point I'm trying to make, that it's not that dissimilar here, that you do have the one land owner and not a real estate lawyer, I'm using the knowledge that I learned from the legal services that were given to me as a city employee nor 21 years, and I draw upon those lessons for those many, many, many cases that came up before the city council, the planning commission, zoning and planning commission, very similar situations, and each and every one of those cases got approved because the zoning was appropriate and the disputing matters were handled separately through the appropriate channels that existed. That's all we're asking for here.

>> Pool: So what you're asking us to vote on is the change to zoning to require that the fence be removed and then the parties would go separately to a dispute resolution then to deal with the access in and out of the property? Geo.

>> Just minor correction. The motion would be to prohibit a fence. Obviously, it's already there. It was installed last week. So the dispute would then handle separately the agreement to either remove the fence or come to an agreeable solution about the fence because it's already there. Unfortunately, it got constructed last week before this council hearing.

[3:20:50 PM]

>> Pool: Okay.

>> So the motion -- the recommendation I would ask the city council would be to adopt the zoning and plat information recommendation to support Irmuco, neighborhood conditional zoning overlay prohibiting the fence. Then we can hopefully use that to help guide the discussion and dispute resolution regarding everything else for the joint -- common use of this area.

>> Pool: Just one last point of clarification. Your client owns all of that property, but has ceded easement, the green part, for landscaping.

>> Correct, and the sign. That was ceded before he bought it so he did inherit the easement agreement.  
>> Pool: Thank you.  
>> Mayor Adler: Any further questions for Ms. Glasco.  
>> Houston: Not for Ms. Glasco, no.  
>> Mayor Adler: We have another speaker. John Joseph. Is Bradford here?  
>> Thank you, my name is John Joseph. I represent cantarra joint ventures that owns the property that is -- that's currently being -- trying to pass the zoning -- which one do I use to go forward? First of all, Greg Guernsey was incorrect in the statement that the homeowners association owns this easement. That's not correct. The easement is owned by cantarra ventures limited, my client. He was incorrect in that regard. Do I push left to go forward?

[3:22:54 PM]

Here we go. My client bought section 1 of the cantarra small lot subdivision on April 13, 2006. Contemporaneously with that they purchased an easement, landscape and fencing easement that covers the yellow property, which is the entrance of the subdivision. It acquired this easement as an integral part of the plans for the development and the sale of homes in the subdivision integral to the entrance, appearance and branding of the subdivision division. This is the ownership hisser. On November 7, compass bank as custodian for the Johnsons transferred 2.386 achers to an Ira Raj for Dan Renner on the April 25, 2014 Daniel and Kimberly Randall transferred that same property Roth Ira for the benefit of Mr. And Mrs. Jeter. This application is now owned by them in the Ira and this easement has been of record since April 13 of 2006. The language of the restrictive covenant is abundantly clear, mayor, I won't read it again. You already read that and it was of record and the owners of the property both the renters and the jeters both knew of this landscape and fencing easement from the beginning. They took the property subject to that particular easement and in fact that easement provides that the remained of the property outside of the 50-foot easement my client can use as much of that property as necessary for ingress and egress for the purpose of fulfilling the objectives of this landscape and fencing easement. That's a description of the survey of the easement.

[3:24:55 PM]

And this is a depiction of the location of the fence as it exists right now. It may be a little hard for you to read, but at the north end of the property, the easement is 46 feet from the -- from cantarra parkway all the way down to the intersection, it is 53 feet from the north curb line of Howard lane. This is a depiction of the folks who had signed the petition that opposed the zoning of this property. They are my client as well. This is a picture of that particular intersection that you can see. North is at the top of the page and east and west of course to the left and right the interesting thing about this is that the communication between the applicant and the -- it is before you now, before the applicant and case manager on this, they made this application after they filed a request for zoning. The request -- and the request for zoning, they never let my client know that they were asking for the zoning. In addition, they never asked my client nor notified my client of the request to include this conditional overlay on the property. This is a view of the property that looks north and east from the -- standing in the right-of-way of Howard lane, and this is a picture looking north -- I'm sorry, northeast from the intersection at Howard lane and that sign that you see, monument that you see with cantarra on it and the landscaping around it and to the east and north of it all belongs to my client and was put there in accordance with this landscape and fencing easement. I contend that I am not -- I am not contending that the city does not have the authority to zone this property. I am not extending that the city lacks the authority to either grant the right to build a fence or to limit the right to build a fence or to deny the right to build a

fence.

[3:27:07 PM]

I am telling you and urging you that the council lacks the authority to treat my client differently than how others would be treated in similarly situated circumstances. This conditional overlay is a pretext. It is for the exclusive purpose of denying my client the ability to fully use their landscape and fencing easement which they acquired on April the 13th, 2006. And to prevent us our ability to control and use the entrance to this subdivision that they purchased. The fence as it presently exists meets all applicable requirements of the land development code both in your sf and lr zoning. There's absolutely no justification from the transportation department that this intersection should be treated differently than any other intersection in the city. There has been absolutely no demonstration or justification for the assertion that the size or location of this fence is the health and/or safety issue either by staff or transportation department. Putting aside the legality, we submit that it is bad policy for the council to get involved in this private easement dispute. We have a legal nonconforming use.

[Buzzer sounding]

>> We have a legal nonconforming use which we are allowed to continue under the land development code of the city of Austin, and I'm happy to cite you to those --

>> Mayor Adler: That's okay.

>> And I would urge to you deny the conditional overlay and to deny the zoning as inconsistent and incompatible with the surrounding uses. If there are any questions I'm glad to address them.

>> Mayor Adler: Ms. Tovo.

>> Tovo: I have a couple of questions. First of all, the photo that you show us at the entrance to the site with the cantarra -- that one.

>> Yes, ma'am.

>> Tovo: Where is the new fence in this?

[3:29:07 PM]

>> The fence would be at the back of -- let me take you to the diagram. The fence would be to the back of the monument.

>> Tovo: I guess I really wanted to understand it on that photograph. I've seen these other images. Is there now a fence --

>> It would be about where the degrees are in the back of -- trees are in the back of the photograph you see.

>> Tovo: I wanted to verify this photograph you're showing us is preference.

>> That's correct.

>> Tovo: The site no longer looks like this?

>> Yes, ma'am. I would point out that monument there and the wall that's an integral part of that monument and landscaping is within 50 feet. That's there as well in furtherance of our landscaping easement.

>> Tovo: All I'm really trying to figure out whether this photograph was taken before the fence was erected and the answer is yes.

>> Yes.

>> Tovo: Can you help me understand, I'm not fully -- there was so much discussion about the fence and ease. And the dispute, help me understand what your reasons are for opposing the zoning request?

>> I think lr zoning is inappropriate immediately adjacent to a single family development like this. That's what I think. I think that's inappropriate. And I think this intersection an inappropriate location for lr

zoning. I think in most Normal circumstances you would consider that as such. And this property is located within one and a half mile of three filling stations, three service stations, CVS pharmacy and litany of retail uses. This is a pretext for denying my client its rights to use the landscape and fencing easement it acquired when it bought this subdivision.

>> Tovo: Okay. Last question is you were showing us an e-mail between the applicant's representative and our city staff.

>> Yes, ma'am.

>> Tovo: That talk about the fence again. But I don't think I understood fully the point you were making with this.

>> They filed a zoning application without notifying us --

[3:31:08 PM]

>> Tovo: Sorry.

>> They filed a zoning application without notifying us and required this request for the conditional overlay without notifying us, all of which they knew we had a right to -- during this entire process.

>> Tovo: I see. I wasn't clear if you were making a point about the city process. What you're really saying is the applicant didn't follow process that you expected them to follow based on the private agreement you have with them?

>> I'm saying that they never told us about their application. The city sent the notices out that they should have sent under the zoning ordinance. I believe that they should have -- see, I believe that they should have renoticed when they sent out the conditional overlay. But they didn't do that.

>> Tovo: The city did not?

>> They never did.

>> Tovo: I'm sorry, the city did not? The city should have renoticed?

>> I think the city should have renoticed when they added the conditional overlay.

>> Tovo: Thank you. I just wanted to understand the point you were making there. Thank you, Mr. Joseph.

>> Mayor Adler: Thank you very much. Ms. Houston.

>> Houston: Sir, help me understand, Mr. Joseph. So the issue is that you weren't renoticed when the overlay --

>> No, ma'am, no, ma'am, that's not the issue. That is just a fact.

>> Houston: Okay.

>> The issue is should the city of Austin be asked to deny a property owner its rights to use its property.

>> Houston: Okay.

>> That's the issue.

>> Houston: Thank you, sir.

>> Mayor Adler: Thank you.

>> Houston: Mayor?

>> Mayor Adler: Yes, Ms. Houston.

>> Houston: This is complex legal issue, and we've got some good lawyers on the council, but I don't know that we're good enough to figure this out. Because if the pink and the green are owned by one person, right -- remember the pink and the green?

>> Mayor Adler: Yes.

>> Houston: And then the pink has some rights based upon something. And exercise that right to put up a fence. Then I'm concerned how the owners of the property, did they give -- is the agreement that they could always use that pink zone in perpetuity?



[3:33:16 PM]

Because somebody else owns that, owns the property, right?

>> Mayor Adler: Well, when you think of ownership, ownership has lots of elements to it, ownership of any piece of property. When you own a piece of property you have a right to walk across it, build on it, you have a right to keep other people off of it, the right to exclude. There's certain rights that you have. People by contract can divide those rights. And they can say within this bundle of rights, here, I'll keep these and you keep these. And then the person who has those rights is like the property owner as concerns those rights. And the rights that I keep, I'm the property owner as concerns those rights. In this case, the question I was asking was the people on the front of this property went to -- not this property owner but their predecessor and said among your bundle of rights, can we buy from you the right to be able to put up a fence and to put up landscaping and put up a monument sign. And it happened, and it happened in whatever that year was, 2006. And now the person who owns the balance of the property, the balance of the property rights, their rights are secondary to the primary rights which were sold. So the person now who owns the easement has a right to build a fence, has a right to put up landscaping, has a right to put up a berm, has a right to do all those things, and anybody who buys that property back behind it knows that they're buying property that somebody else owns the right in front of them to do different things. That was the question I was going to. It seems as if they -- the person who bought that should have looked at that and said, well, either I'm okay with somebody having a right to do that in front of me or I shouldn't buy that property.

[3:35:19 PM]

Or I can go negotiate with that person. Now, what the law says, I think, I won't give legal advice to the council, which I can't, do only our attorney can, but my personal understanding of this is that when you own the underlying land underneath an easement or when you own an easement you're entitled to do only those things reasonably necessary with your easement rights. So it's possible that a land owner could behind these easement, the green part or whatever that was, could go into court and say the use that's you're making of your green property go beyond what the easement allows you to do, if they erected a commercial use or did other things. One question is the question of access. So one question is does this easement give the easement holder the right to deny access? And I'm not going to express a legal opinion on that one.

[Laughter]

>> Houston: That's a good one. I see your attorney --

>> Mayor Adler: But my gut tells me the place for that to be resolved -- would I hope they would sit down and I would hope that as a good neighbor or whatever they would look at that and open up access for the people back behind them. But whether or not they have a legal obligation to that ultimately would be a court reading that very easement you're reading and say does that give them a right to stop access? My personal view probably not. I would say they can still fulfill all their uses but still allow for many measure of access behind it. I'm not giving legal advice to anybody in this room but my belief is those kinds of questions, the forum to decide those kinds of questions probably isn't this table. It's a different forum for those kind of things to be decided.

>> Houston: I'm neither a lawyer or a smart person but shone sense says that if -- common sense says if you're completely blocked off, even if you have a right to do that, then the property owner in the green part should have some right to enter and exit and use that property to their benefit.

[3:37:35 PM]

And but I don't see that that's a city council decision. I think that's a court issue.

>> Mayor Adler: Ms. Kitchen, then Ms. Pool.

>> Kitchen: So I apologize. We just talked about what should not be in front of us. What is in front of simultaneous.

>> Mayor Adler: Well, there's not a motion in front of us.

>> Kitchen: I know. But we're being asked to make a decision on a conditional overlay.

>> Mayor Adler: Well, zoning and example overlay. So someone could move to grant the Ir zoning with the conditional overlay that says no fence. Someone could make a motion to grant the Ir zoning without the conditional fence or they could make a motion to not change the zoning.

>> Kitchen: Got it.

>> Zimmerman: Or motion to table.

>> Mayor Adler: Or whatever. In fact this would be a good time. Is there a motion to put on the floor? Did you have something you wanted to add, Mr. Guernsey.

>> I don't know if Ms. Glasco had a chance for rebuttal, per Normal course.

>> Mayor Adler: True. Ms. Glasco.

>> Thank you, mayor, for the rebuttal. Mr. Joseph indicated that this is a pretext in order to prevent the easement holder from using the easement as intended. That is not our intent at all. We recognize the easement. We recognize the landscaping has been there and the monument to the subdivision have both been there since 2006. So that is recognized, and we do not intend to inhibit or prevent them from continuing to use that at all. The zoning is appropriate. Back to context, imagine Austin comprehensive plan provides the guidance as to where the zoning is appropriate.

[3:39:38 PM]

Your staff has indicated that the planning principles regarding location of neighborhood commercial is appropriate here. It's appropriate throughout the city where you have neighborhood commercial zoning, and this particular property meets all your locational criteria for neighborhood commercial. If not here, where else? And for most developers who build subdivisions or design subdivisions and I do assist quite a few of them, when they design subdivisions for their residents they also set aside land, although not commercial developers they do set aside land for another entity to come provide services for their residences so they don't have to drive too far tout get a gallon of milk, coffee, other services. So this particular property obviously, as you can see, was never purchased by the developer to provide services. It's left over and the most appropriate use for it is some neighborhood-related services and Ir-mu-co, whether with or without a fence -- I know there's a trip limitation and the zoning commission added a prohibited use and those are all okay with us so I do urge you to at least approve the zoning as recommended by your staff and the planning commission and the used imagine Austin as a guidance and planning principles that are used by the zoning and planning commission and the planning commission and your staff to guide them in making such recommendations. Thank you very much.

>> Mayor Adler: Thank you, Ms. Glasco. You want to make a motion?

>> Houston: So now, mayor, my confusion is if the owner of the property in the green wants to put commercial use there, he can't get in or out. Nobody can get in or out because of the easement?

[3:41:41 PM]

Is that the issue?

>> Mayor Adler: So it's -- just because property is zoned in a certain way doesn't mean that you can develop it that way. In order to be able to develop a piece of property, you need several things. You need the correct zoning, you need access, among other things. So we could give this person zoning for Ir

use, and then they could continue their negotiations or conversations, they could buy the easement or they could negotiate something. But before they could ever actually use it for that use they would have to figure out some way or another to get access. But it's -- they're still entitled to request that zoning and we can either give it to them or not give it to them. Bogus because we give it to them doesn't mean they can necessarily build it. My guess would be it sends these people back to the easement dispute that it's looking like they have. So I entertain a motion at this point. Would anyone move to adopt it but drop the on the fence happen Mr. City council --

>> Mayor Adler: What?

>> First reading only.

>> Mayor Adler: And to close public debate.

>> Casar: I move too.

>> Mayor Adler: All those things? Ms. However second. First reading, adopting without conditional use and closing debate. Any discussion? Ms. Tovo.

>> Tovo: I guess I'd like to hear the rationality for dropping the I mean overlay. That was recommended by planning commission, correct.

>> I would recommend it because I don't think it's an appropriate thing for us to be doing at this point. We have a property owner who specifically went out and purchased the right to build that fence and I don't know how -- from a zoning standpoint we would entertain to -- interject ourselves in that contract.

[3:43:42 PM]

Further I have a question, I don't know whether this is a question for legal. Just real quick. If we passed the conditional overlay and the fence -- the fence is already built. If we passed the conditional overlay at this point, the fence is grandfathered, isn't that right?

>> Correct.

>> Mayor Adler: Even we pass this the fence doesn't come down. It becomes a legally nonconforming use at that point.

>> Tovo: I understand that. I understand a lot of the conversation we've had surrounding the fence and whether it's our place to weigh in on that. I'm really trying to clarify the planning commission included -- I was trying to figure out if the maker of the motion stripped that out or, mayor, whether you were making that as a friendly amendment, where and how the conditional overlay got stripped out.

>> Mayor Adler: It was in the motion Mr. Casar made.

>> Tovo: Thank you for that clarification.

>> Mayor Adler: Ms. Pool.

>> Pool: I'd like to understand if -- when the easement was granted, I think I heard Ms. Glasco say that the person who purchased the land after the easement had been granted had a -- there was an understanding, verbal understanding that there would not be a fence in that area.

>> Casar: This is why I think it should be handled in court.

>> Excuse me. John thinks he knows what I'm going to say. So the answer -- minor correction on that. No. It was his -- he did not have a dialogue with the owner. It was just his -- in reading it, his own assumption. He did not have a dialogue with us or in reading it he just thought surely they will be reasonable people and, therefore, it shouldn't be a problem.

>> Pool: And we don't know what the understanding was of the previous owner who granted the landscaping easement and what that person's understanding was?

[3:45:42 PM]

>> My client is here and he spoke to him and he -- he does not recall what really happened. So that's the

recollection.

>> Pool: Okay, thanks.

>> Thank you.

>> Mayor Adler: Hang on a second.

>> My client acquired this in April 13, 2006, from the owner of the property at the time with specific understanding they were going to be able to use that as entry for their subdivision for the purposes of landscaping and fencing and that's exactly what they did and they paid consideration for that at the same time they bought section 1 of this subdivision.

>> Pool: Would that terminology, landscaping and fencing be in the documents?

>> It's already in it, yes, ma'am, it's part of the record you have, the backup, and part of the powerpoint I gave and you highlighted in yellow for the purposes of this discussion.

>> Pool: Because that seems to be the crux.

>> It's very clear, abundantly clear in the record.

>> Pool: Thank you.

>> Yes, ma'am.

>> Mayor Adler: Any further discussion? Motion is to approve the zoning without the conditionally conditional overlay on first reading only. All in favor -- and close public hearing. All in favor please raise your hand.

>> Mayor, can I ask one question?

>> Mayor Adler: Yes.

>> Sorry there was a conditional overlay in addition I believe on this property that had a limitation on 2000 trips and also --

>> Mayor Adler: My understanding is that Mr. Casar's motion only strips out the conditional overlay the requirement for a against.

>> Very good, want to make sure it's clear for the fence.

>> Mayor Adler: Is that the understanding at the dais.

>> Casar: Sorry, makes it so that a fence is not --

>> Mayor Adler: Not allowed.

>> Casar: Allowed.

>> Mayor Adler: Correct. Otherwise it's the recommendation that comes from the planning commission. All in favor please raise your hand. Those opposed?

[3:47:43 PM]

Passes unanimously. Okay. Next item.

>> Mayor and council, next item is 22, this is c14-2014-0171, for the property located at 2927 east martin Luther king, Jr. Boulevard to rezone the property which is just about a third of an acre from our standard residential zoning of sf three to sf 6 zoning urban family residence conditional overlay zoning. The staff recommendation was to recommend sf5, little more restrictive and the planning commission on consent of vote 7-0 did recommend that. The property definitely is proposed to be used for just four units or four residential units, would have a density similar to that that you might find for duplexes. The property itself is about 14,000 square feet. We require about 7,000 square feet to build a single duplex unit. So this would be four actually detached Susan what is proposed on this property. It does have some support by the McKinney heights neighborhood association. It also has support of the rosewood neighborhood contact team. And that I'll pause, if you have any questions, I think councilmember Houston pulled the item. I don't believe there are any speakers in regards to this item.

>> Mayor Adler: Council, I have been asked to come up to the legislature to talk about deregular, I'm going to go on up, turning the chair over to Ms. Tovo.

>> Houston: Thank you. Mayor pro tem, may I ask a question please?

>> Tovo: Please do since I don't have the speakers.

[3:49:44 PM]

>> Houston: I don't think there are any speakers signed up. There may be. The reason I pulled this is because this development fronts on 969, which in the city we call Martin Luther King, Jr. Boulevard and I want to know what are the other ways of egress and exit?

>> They have no other access. They're only frontage. Street frontage is on MLK.

>> Houston: Do we have a traffic count of how much traffic goes up and down the street during peak hours?

>> I don't know if I've got a total traffic count for Martin Luther King. This would probably generate no more than 32 to 40 trips for the development, but I do not know the trip total on MLK at peak hour.

>> Houston: Again that tells us about development by development. 32 trips a day is fine if you're living in a small area but this is a state highway and it's the major way to get in and out of east-west connectivity getting in and out of town on MLK goes all the way through to Webberville, people come in off 130. I know the neighborhoods support it but the issue for me is we're continuing to put density in places where there's already so much development that's not being taken account of. So if I were to live in that -- one of those condos and needed to work downtown, I would take a right on MLK, go to Harvey, another right, all the way down to 12th street, take a right to get into town. So I'm just saying that we're making more congestion, the more we put on these major thoroughfares periods it's only two learnings there's an M station and I know somebody will tell me they can take the train or ride a bicycle but I'm willing to bet they'll have two cars and it will be a traffic-nate mayor and I just wanted to make that.

[3:51:52 PM]

>> Tovo: Thank you, councilmember Houston. Other questions for our staff, colleagues? There being none I'll entertain a motion on this case.

>> Renteria: Move to approve.

>> Houston: I'll second.

>> Tovo: Councilmember Renteria moves approval, councilmember Houston seconds.

>> Closing public hearing.

>> Tovo: Thank you. Councilmember Renteria was your motion to close the public hearing and approve on three readings?

>> Renteria: Yes, thank you.

>> Tovo: All in favor?

>> Tovo: Austin unanimous on the dais with mayor Adler off the dais.

>> Thank you, mayor pro tem, and council.

>> Tovo: Our next item is item 12.

>> If with us Pavin been presenting.

>> If it's okay with council, even though we need separate motions we can talk about 23 and 24 at the same time, both Scott airport parking. 23 is c14-2014-0175a, Scott airport parking for the property located at 24267126 Cardinal Loop, requested to AV district zoning. Item 24 is 20042004, also known as Scott airport parking, located at 2411 and 249 Cardinal Loop. Requested zoning is from rural residential district zoning and community commercial conditional overlay to AV aviation district zoning. First case is 8.246-acre track, second ten-acre track. Staff recommends approval both items. The property we are discussing is -- the city owns, aviation department owns, we used federal aviation money to buy the property as a part of a noise mitigation program. The city is restricted on what we can use the property

for because of the conditions that the federal government attached to the purchase.

[3:53:57 PM]

We do have an overlay which restricts what you can put in there, basically prohibits residential types used. The proposed use is bark and park, park and ride, where you can drop off your dog and at and have a seamless operation of dropping off car, dog, Val day park your car, take your dog to the kennel, you over to the terminal in a van. The owner is here to discuss the operation more. With regard to the staff recommendation since the property is owned by the city, is for airport use the staff strongly feels the av district zoning is the appropriate zoning for this property. We did discuss the issue of uses within the airport discover lay at the planning neighborhood committee last week of the city council. There was no recommendation given. We weren't speaking to specific zoning cases but were speaking about this issue. I'm available for any questions.

>> Tovo: Councilmember Houston.

>> Houston: Thank you, sir. I recognize that this is part of the master plan for the airport.

>> Yes.

>> Houston: But on the documents that I have, it's not part of that until 2035. What happens if something else comes in that's more critical to the needs of the airport than a pet motel?

>> We have a representative -- it is a public private partnership between a private entity and the city but we do have a representative from the airport here. I would prefer he'd address the airport management plan issue.

>> Houston: That's fine.

>> Councilmembers, aviation department. It is part of the master plan of having land site type of operations north of 71. That being parking, could be employee parking, public parking, or it could be also -- we have identified rent-a-car service centers.

[3:55:59 PM]

Parking is the ultimate use that we see, moving to our long-term plan. If there's any other use that would be higher priority, we always have the option in any agreement to purchase that out and make it to where we can repurpose that property to a use, but it still has to be an aviation purpose use.

>> Houston: So are we talking about -- we're talking about two pieces of property, two different zonings, right? Same piece of property? Councilmember, this is in your district, so I'm going to be looking to you. It's the same piece of property but two different uses? Changing the zoning? To allow a pet motel.

>> Garza: Changing them to the same zoning, av.

>> Av zoning, that's correct.

>> Houston: Okay. So I'll ask my question about the use of -- using that zoning for the pet motel maybe later.

>> Tovo: Councilmember Houston, I'm sorry, did you want to ask that question of our staff or did you mean --

>> Houston: Yeah, yeah. If somebody knows that now.

>> Mr. Rusthoven --

>> Sure, I can answer quickly. The uses aren't specified in av the Normal way. Rather it says the permitted uses are those related to airport use. So the staff does consider offsite parking as well as a pet motel that serves customers of the airport to be an airport-related use.

>> Houston: And I guess my question is if we go ahead and execute this now and we find that there's another use three years from now that would be more fitting with the av zoning, what do we do about the pet motel that's already been built?

>> I think that there would be an issue again for the airport person to answer. I can tell new the av zoning district any use related to the airport would be peppered.

[3:58:00 PM]

What would happen -- permitted. What would happen between the airport and the private entity is something Shane can address.

>> Houston: Okay.

>> Ultimately we have other vacant land that is around these two tracts and so we would be expanding our surface parking operations to the highest best use we have for the aviation department around there. The pet hotel is one small acreage of land comparing to the overall acres that would be designated for parking strategy at the airport.

>> Houston: There are no other uses other than a pet motel and parking that the aviation department could come up with.

>> Parking operation is the ultimate of the rfp, was to expand parking operations. We included where you could have a -- add to the parking component that would make it an attractive site and both the proposal -- what the proposal included was a pet hotel. It's one of those trends that other airports around the united States are doing so we looked at it as a positive thing, new strategy, another use that the customer could have for pet boarding and parking, you combine those two operations. So ultimately it's a parking operation and long-term is to expand our parking. This is one component of it, a service added onto our parking operations.

>> Houston: And the airport advisory committee, did they vote it -- weigh in on this at all?

>> We took it to them and they approved it as a -- they approved the rfp and the negotiation of the contracts.

>> Houston: When was that is.

>> That would be back in like 2014.

>> Houston: Thank you.

>> Tovo: Councilmember Zimmerman has a question but I want to follow up, councilmember Houston had asked he you a question and I think I heard you answer it a little earlier.

[4:00:01 PM]

If the airport decided that there's not a -- an interest in continuing or that there's not enough demand for a pet hotel in the future, I thought I heard you say earlier there's an ability -- the city has the ability to --

>> Well, ultimately --

>> Tovo: Get out of that option?

>> Ultimately it would be -- the option for all our agreements at the airport is there's a different use, we have the option to basically buy out that contract and use it for whatever that new purpose is. However, this -- ultimately this agreement is for parking and adding parking operations to the airport. The pet motel is one of the small --

>> Tovo: One of the amenities. Thanks, councilmember Zimmerman.

>> Zimmerman: Yes. Just quickly, is there a connection between agenda item 24 and 27? You look at agenda item 27?

>> Councilmember, there is not.

>> Zimmerman: Okay.

>> Other they coincidentally happen to be for the same.

Speaker4: Pet motel operation for the airport. One is a private individual. You already approved 27.

>> Zimmerman: It was coincidental they showed up here at the same time. One is a private public hotel and one is a private.

>> Exactly public private and private.

>> Zimmerman: All of a sudden it's pet hotel.

>> The market is booming.

>> Zimmerman: Yeah.

>> Tovo: Why don't we move on to our speakers. First is Michael Whelan. Is Adam Higley in the chambers? Mr. Whalen you have six minutes and Mr. Whalen is speaking against -- Mr. Rusthoven, do we typically here those for in front first or does it make a .

>> Typically we hear those for. In this case the city is the applicant because the city-owned property but we do have the representatives from the private company that would be the private side of the private-public partnership.

[4:02:11 PM]

>> Tovo: What would you suggest?

>> Would they like to speak?

>> Of course they want to speak.

>> We could have a brief presentation from them. We did have a brief one at the pnc.

>> Tovo: Thanks for your graciousness. We'll hear from those in favor first. Chris Von Dolen, William MCI will VOY, so we have Mr. Von Dolen, you have six minutes and followed by Melanie McElroy for three minutes.

>> Thank you, mayor pro tem, council members. So I'm here today as a member and part owner along with 25 other Austin area investors of Scott airport parking. See if I can work this. This transaction is structured like a public-private partnership. The city of Austin is providing -- this was done subject to an rfp issued and we responded and were selected. The city will provide the land via lease and development agreement signed back in March of 2014. The city will receive shuttle license fees, ground rent and percentage rent. It will also get reversion of the assets at the end of the lease term. Scott airport parking does the design, the development, and provides 100% of the project cost. As mentioned this is a growing consumer trend around the country. There are at least 13 U.S. Airports that have pet hotels in proximity to airports. As far as we know, we will be the only pet hotel that is in a transaction like a public-private partnership on city-owned land.

[4:04:13 PM]

One of the issues being discussed is noise mitigation and our lease and development agreement has certain requirements. In addition, our architects and animal consulting experts have recommended both sound attenuation construction materials, basically the walls, both extraordinary and interior, the roof will all be designed towards noise mitigation. We believe that we will reduce the decibel levels at least by 65 which puts us well down below the 25 required. There's also operational mitigation that we can do if necessary, and that is to control when we would have the pets outside where it's much louder and not subject to the noise mitigation. This gives you an idea of where the site is in relation to the airport. You see the Hilton hotel there, the donut. The lease -- the land there in front of the Hilton, the other sites are all north of 11. The two sites right now that are being rezoned, item 23 is actually just to the left, the top of the page from the yellow, and item 24 is the yellow. The pet hotel will go in the bottom portion of the yellow site. That's just an architectural rendering of the pet hotel. This is an overall reference plan of the yellow site that we had the picture of. 71 there is to the -- to my left. There was some discussion of the -- I think I may have flipped over it here. The logistics. Mr. Rusthoven mentioned



basically you'll -- you'll turn off of 71 if you're coming from the west, exit presidential, make a left turn under the overpass on to cardinal loop you make a right turn into our project.

[4:06:23 PM]

You would pull into a covered area. You could get out of your car there. Someone would take the pet inside. The other passengers would get on an air conditioned shuttle bus, our attendants would assist with luggage. The person who took the pet inside would join them. You'd be taken over to the airport to catch your plane at the terminal and would you do the reverse on your return. Your vehicle would get included valet upgrade so we can control all the activities that are going on. When you return your vehicle is waiting for you. We help you get your luggage in, you go inside, check your pet out. Kind of a 1-stop shop. We also have car care services, may look at doing a laundry drop, that sort of thing. This picture does a little better job of showing you what I was talking about, where you would come in from cardinal loop, shown at the top of the page, the driveway is there, actually a black line there on your -- in front of the facility. It's got outdoor areas, pool. One other item that was in our revised proposal, there's been discussion lately, is that we have actually in our revised proposal and the way the lease provides, each phase has to be approved by itself. And we have discussed a parking and ride facility for capital metro in phase two and that's shown there conceptually on the northern portion of the yellow side. We haven't engaged far enough along to know the size or the exact location or what capital metro would want but back early on we thought of it as a good potential use, proposed it. The airport sees that it's something that would be good for the neighborhood and we're in discussions about that right now. In fact I think the clerk has shared with you a letter between Scott airport parking and airport aviation staff and I've just cut and pasted the guts of that letter here and that's our intent to work together and to engage in discussions with .

[4:08:31 PM]

So it would allow folks from bastrop, del valle area, anywhere around the airport that would want to park there and take a capital metro bus into town or whether they might go. They might use our facility or might not but it's a compatible use if.

[Buzzer sounding]

>> -- The parties so desired. And I would urge -- we've been in process since October, in front of the council for a couple months. We had the privilege of working with several of your offices, going before planning and neighborhoods, which we're glad to do. I would urge passage on all three readings.

>> Tovo: All right. Thank you very much, Mr. Von Dolen. Anyone have questions for the applicant? Next up is Melanie McElroy. Welcome.

>> Mayor pro tem and councilmembers, I appreciate the opportunity to talk with you this afternoon. I understand that councilmember Houston expressed some possibly skepticism about the popularity with my husband, William, have been in the pet care business for 20 years. I'm also a vet technician, how I started my career, and I can assure you that the demand for pet boarding and day care and training is increasing exponentially and it's definitely a service that we have been able to be very successful in providing for the Austin community. We own four locations in Austin, also have administrative office and a learning center in the rosedale neighborhood and we're opening another location this summer. It is a very much needed service, particularly in Austin where we're getting so much population growth. I primarily wanted to just let you ask me some questions. I wanted to tell you kind of who I am. The most important thing I'd like to emphasize today is that this is a really cool project.

[4:10:34 PM]

A lot of times when you think of a kennel, you think of dogs barking outside and runs and chain link fencing and that is not at all what this project is about. It is state of the art, and it is very cool. We have over 7,000 square feet of outside place -- outside area just for the dogs to play. So I wanted to just open it up to some questions and see what kind of thoughts that you're having.

>> Tovo: Thank you very much, Ms. Mcelroy. Do we have questions?

>> Thank you.

>> Tovo: I guess not. You've answered all of them. Thank you. Mr. Whalen. Welcome back. You have six minutes.

>> Thank you. Mayor pro tem, councilmembers, my name is Mike Whellan and I'm here on behalf of Airport Fast Park, family owned facility on the north side of Highway 71 across from the airport. Airport Fast Park has the property adjacent to the tracks of public land that Scott Airport is rezoning for the city. Airport Fast Park's primary concern is the immutable nature of your decision today. If you rezone these to public land for parking and a pet hotel we believe that the and I will miss a tremendous opportunity to collaborate with the community, stakeholders and local land owners such as the Chavez family to redevelop the area and create a stable destination for the area with a meaningful tax base. And I would note I've looked at the four four-page lease, single space lease, I don't see the buyout provision, councilmember Houston, where you can automatically do that. I think this locks it in until 2056 but aviation department is welcome to my marked copy to find that provision but I don't see it. What happens and you saw in the presentation by the applicant, Scott Airport, at the true at the end of the lease, in 40 years, the structures would revert to the city, but I did not see a buyout provision in the four four page single spaced lease.

[4:12:45 PM]

The publicly owned property is the front door to the city for people visiting the city and citizens returning to the city. This council is about to put a pet hotel there. It may be true that Airport Fast Park should have bid on the RFP when it came out and do a really big public-private partnership in that space, however we did not know about the RFP and were not personally contacted like others were. However, this decision is not set in stone. This is your chance to hit the pause button and take a deep breath, especially since, as you can see from what I handed out, this is something that is basically TBD, to be determined, for 2035. There's no rush in making this decision. The Airport Master Development Plan done less than three years ago specifically identified the two tracts of land as, quote, future improvements to be completed by 2035. As you can imagine, it would be difficult to envision attracting stakeholders to develop other adjacent city property for meaningful purposes with a parking lot and pet hotel at the front door. You will be left with a rental lot area or other -- or more parking. Yet today if you vote to rezone this property you will for several decades, perhaps up until 2056 abdicate the decision making on the use of this public property. It seems to Manuel Chavez and his family the owners of Airport Fast Park there might be an opportunity to do something more significant by combining efforts to imagine the tracts of public land including their tract of land for something other than parking. Let's not play small ball. Let's imagine something more valuable for the community, especially since as we heard this is only a trend that's starting. If we can pull up the visual. A private entrepreneur sought zoning to establish a kennel property. You can see I marked it. It's number 27 on the overhead. That's where the private kennel and the private property will be.

[4:14:48 PM]

Then I've marked 23 is the 8 acres of public land, one of the two pieces up for rezoning right now.

Perhaps we should see if this idea works in the city of Austin before tying up public property for decades. It just seems to make sense. Airport fast park does not oppose fair competition. In fact we've have H to expand because of the city and other competition. And a fair opportunity, wasn't to emphasize we want to see a fair opportunity to have a discussion about how airport property should be utilized. Airport fast park acknowledges that the area directly across from the Hilton hotel -- you can turn off the overhead. Airport fast park acknowledges the area directly across from the Hilton hotel was one in which the near term expectation was for a parking lot. F, again, if you look on your master development documentation it's in blue directly across from the Hilton hotel. However, there is no indication in the master development plan or otherwise that property on the other side of 71 across from the airport would be utilized as parking before a more rigorous discussion about what types of uses and what types of future improvements might be appropriate by 2035. It was just less than three years ago they told this council let's discuss this, we don't have to make a decision until 30 5 2035. Here we are -- they actual in 2014 went out and did an rfp for 64 acres including these 280s, 18 acres and the big tract across from the Hilton, and other tracts. Airport fast park's request would be threefold, one today you deny the rezoning by Scott airport parking for this public property, two, that the aviation department invite the community, especially the local community, and stakeholders to participate in a vigorous and full discussion about how best to use these two tracts of public land which were slated for future development to be completed in 2035.

[4:16:51 PM]

And finally, three, that the community with the department of aviation return with an update to the master development plan for these properties. Again, there's no rush. We can take a deep breath. Let's knock it out of the park, do something big here that really adds value and makes the front door to our community truly wonderful. Thank you for your time, and I'm available for any questions.

>> Tovo: Councilmember Zimmerman.

>> Zimmerman: Thank you, Mr. Wheelen it sounds like there's a similar argument to kind of what we heard with decker lake public, public-private partnership, the objection comes up, well, is it the highest and best use that we could have for this property.

[Buzzer sounding]

>> Zimmerman: So I kind of tend to agree with your argument that it doesn't quite look like it could be the highest and best use, and I like your idea about looking at the pet hotel and the private property section right. It's kind of weird that both of these went at the same time but I like your idea, seeing how that works on the private parcel before we commit to this.

>> I'm not immersed in decker so I don't want to speak about it. Looks like a big mess, everything I read. I will say I feel like there needs to be a robust discussion about what to do with 18 acres of public land that was marked tbd.

>> Houston: No pun intended. Immersed.

>> Like that? My wife is the punster, not me.

>> Tovo: Councilmembers, other questions? Mr. Whalen, I have one for you.

>> Only one?

[Laughter] Yes, mayor pro tem.

>> Tovo: So I understand the point you're making but, you know, unlike other public land this is slated -- it's got to be used for particular kinds of purposes and it can't be used for other kinds of purposes. In fact it was purchased by the and I to get some of the uses incompatible with airports. But I think what I would like to get to is the heart of the question that I asked your client when we had an opportunity to meet, and that was whether or not they would have applied for the rfp had they known about it, and the answer was yes.

[4:18:55 PM]

So help me reconcile that with the statement now that there should be really a grander vision for that. Your client has a parking facility. This is a parking facility, primarily.

>> Absolutely.

>> Tovo: So I guess I just throw that out to you for your response.

>> Absolutely. I think if the -- so two things. One, they recognize they come in here with that bias, right, they're seen as a competitor. But they're also developers. I think Mr. Chavez told you he's also developed property elsewhere in the United States and he sees especially since he owns the property where there's longhorns right now directly adjacent to this tract, directly to the west of the tract that's marked cs-co, large undeveloped tract that he owns. It's easy for him to do more parking. He just, I think, either in our conversation with you or other councilmember offices I've developed other property. There are other uses the federal government would allow that might be more beneficial generally. So . . .

>> Tovo: Thanks very much for that response. Councilmember Renteria.

>> Renteria: Yeah, I'd like to have -- ask a question to the staff. I just heard a comment saying that in the lease doesn't work out that we would buy it back or buy them out? What does that mean, that -- when you made that comment, that if it didn't work out?

>> I understand the comment if the pet hotel wasn't successful or the best use we could expand our parking operations basically where the pet hotel sits, but it would still be a negotiation with Scott airport parking to expand our parking operations. Ultimately, this site was in our 2003 master plan for long-term parking, and car rental service areas. So it's always been our intent for this site to be parking operations.

[4:20:56 PM]

We on the out with an rfp for a third party, they brought in another use. If that use wasn't successful, we'd go back, it would be their business deal that we have to expand our parking operations and it would probably be the site where the pet hotel is located.

>> Renteria: Correct me. If they were to develop the pet hotel there and they went out of business, say that there wasn't enough business to support it, are we responsible to pay them anything for that?

>> No.

>> Renteria: Investment?

>> No, it's their financial risk.

>> Renteria: Okay. Thank you.

>> Tovo: Councilmember Houston.

>> Don't leave, sir.

>> Sure.

>> Houston: Don't leave. You're like those aviation folks. You're getting away really quick there.

[Laughter]

>> Houston: So talk to me about the buyout provision? Where is that? What does it say exactly?

>> Really misspoke of saying a buyout. I understood it as if the pet hotel isn't successful, you know, we can expand our parking operations. It would be an arrangement of the developer, looking at that site, going the parking is more successful than the pet hotel, take a look at the pet hotel site and converting it to long-term parking spaces.

>> Houston: But aviation would not -- so the lease is how long?

>> The lease is 30 plus -- it's 30 years but it starts at really the end of their 10-year development so

starting now until ten years. Ultimately it could be about a 40 or less year lease. It's a long-term lease.

>> Houston: And how much is the lease? What is the price of them -- what's the lease amount?

>> It starts out roughly about half million a year of rent and it's revenue share and grows up incrementally every five years for the ultimate term of the lease.

>> Houston: Okay.

>> Zimmerman: Point of information, I think there is a page in our document -- is this the one you're referring to? So my question was, so say if we get to year six it says they're supposed to be paying \$590,000, I guess per year of rent, right, from year six through ten, if I read that in here.

[4:23:07 PM]

So we have a metric here. So I would say that not successful means they can't pay the rent. So is that in the contract elsewhere, that, you know, if these payments are not made on schedule, then they would be terminated from their lease? Is that how that would work?

>> You can have defaults in there. Ultimately, this is guaranteed and it's a revenue share and revenue is based on how successful they are, a percentage.

>> Tovo: Remaining questions?

>> Houston: Just one more statement. Just so that everybody who is listening or watching understands, I'm not a pet hater. I have cats and dogs and the dog travels with me when I fly or did before she died.

And so I just want to say that there are other things that I think we might need this land for. I am glad that councilmember Garza's idea about a park and ride was accepted. Maybe -- and thought about because we do need that kind of opportunity on that -- in that area so that we can get people into Austin without having them drive their cars. So that was exciting. But just to make the record clear, I do like pets and I do think they need to be board. I'm just not sure this is the right place.

>> Tovo: Councilmember Garza.

>> Garza: I'll reiterate some of the comments I made at work session. This was on the agenda I think over a month ago and I postponed it. I think it got postponed twice because as I said in work session it set off some alarms and my goal was to make a general -- I wanted to make a general statement about looking at these kinds of master plans holistically when we think about planning the airport we also need to look at the community. I met with parking people.

[4:25:08 PM]

I absolutely understand Mr. Whalen zealously advocating for his client. I will say that the Scott airport people are the ones that said that a park and ride was something they had thought about I guess previous but there hadn't been any movement on it, and I greatly appreciate that they listened and said, you know, yeah, we'll -- there are some uses that we can use this for to help the community, and I think it would be -- I really hope that as -- that we have that on record now and that as we move forward we can talk with the airport people and the Scott airport people or whoever else and make sure we think of the surrounding community who has -- district 2, del valle has long been neglected area. So I -- this was an rfp done by the previous council, and I am prepared to move forward with it. And I would move approval of this item.

>> Tovo: Councilmember Garza moves approval. Is there a second? Councilmember pool seconds it. Mr. Rusthoven.

>> Council we do have two separate items so if we can get an item on 23 and separate on 24 that would be great.

>> Tovo: Councilmember Garza moves approval on 23.

>> Garza: Can I do both at the same time?

>> Yes. So we can do 231st and then 24 and then we'll be done.

>> Tovo: You'd like us to do those separately. Councilmember Garza closes public hearing and moves approval on 23, councilmember pool seconds. Any other discussion? All in favor signal by raising your hand. Councilmember troxclair, Casar, Gallo, gag, kitchen, pool, and tovo vote aye. Councilmember Houston, Renteria -- excuse me, all opposed.

[4:27:11 PM]

Councilmembers Houston, Renteria, Zimmerman vote oppose. Motion passes. Item 24, is there a motion?

>> Garza: I'll move approval.

>> Tovo: Councilmember Garza moves approval seconded by -- is there a second? Councilmember pool seconds the motion. Any further discussion? All in favor? Same councilmembers. Councilmember troxclair, Casar, Garza, kitchen, pool, tovo. All opposed. Opposed by councilmember Houston, councilmember Zimmerman. Any abstentions? Councilmember Renteria, I'm sorry, are you abstaining or -- councilmember Renteria abstains and on both of those votes mayor Adler is off the dais.

>> Thank you.

>> Tovo: Thank you, Mr. Rusthoven. We are now on item 25, Mr. Guernsey.

>> Thank you, item 25 is a zoning case c14-2014-0176 at 617 thrasher lane, zoning from single family residence plan combined district zoning. Planning commission did recommend the zoning change request to sf 4a and added conditional overlay that would limit the floor to air ratio to .4. The property itself is about 9,400 square feet and it's currently developed with two exiting single family homes. The owners of the property, two family members and they seek to actually divide the lot into two lots so you'd have one house on one lot and one house on the other lot. They do propose a change slightly to one of the lots to change the direction of the driveway on the property. The staff did recommend the request but without the overlay of the .4. It was supported by the montopolis neighborhood planning contact team.

[4:29:17 PM]

I think there was concern raised during the zoning meeting about the size of structures and the commission eventually landed with a .4 far. The under arm -- mansion regulations in the city usually you are allowed to develop at a minimum of 2,500 square feet for a single family home. The effect of the planning -- or the planning commission's recommendation would limit the size of houses on the lot one, which is the larger of the two lots. That's about 5,576 square feet, to 2,230 square feet. So it dropped the size of a house allowed on that property by 70 dispute. There's a more impact on the second lot, which social security 6,672 square feet and the proposed far, which the built could be built to 334 square feet it could be 1,272 square feet. So it would be quite a bit of reduction on that lot. Again, this would only effect for the new construction if it would come forward. To my knowledge I don't think you have anyone signed up in opposition to -- in opposition to the request as it was requested by the applicant, but you do have the applicant agent and I believe maybe the owners of the property here that would like to speak against the planning commission's representation to add that condition. Of the .4 far. I'm here if you have any questions. Otherwise if you can --

>> Tovo: My mic has encountered a serious error and shutting down, it says, but it's working. Mr. Guernsey, what you're saying is the applicant is opposed to the planning commission's recommendation --

>> Of the .4 far limitation.

>> Tovo: It looks like all our favors are in favor of it. I'll call them up and I suppose if the applicant wants

to speak against that condition, then he or she should probably sign up as well.

[4:31:25 PM]

Our first speaker is Mr. Gonzalez. And Mr. Gonzalez, you're registered as four and you have three minutes.

-- As for and you have three minutes.

>> I'm here representing the families, the Cuellar families for the zoning. It's very as I remember. First of all, I'll let you know that I always work -- I don't get out of my box much, and seeing as how I see y'all here today, I will congratulate y'all on your membership to council. I am here to request that the restriction placed on this rezoning case by the planning commission be rescinded. I need to provide you a small brief history of the property. The property located at 617 thrasher lane has been in the Cuellar family since 1977. The property was bought at the time by Mr. More tan Claire. Currently there are two houses that exist on the same property. The existing deed records show two current Cuellar owners, but do not know which property is zoned by them. The reason for the rezoning is simply that the current cuellars are simply wanting to clean up the deed record. The property is small in nature, containing approximately 9407 square feet. In order for the cuellars to be able to subdivide the land within the current land development codes there's a need to rezone using single small lots, sf-4-a zoning. And we are currently processing the subdivision. The proposed small lots are one approximately 57 square feet and the other one 3681. And there's absolutely no way in which huge houses could be built on the proposed lots, which was a concern of the neighborhood people when I met with them and expressed to them that these things were very small.

[4:33:35 PM]

Nonetheless the planning commission brought this up I guess without considering ha that the lots are very small. The standard restrictions call for .4 to 1 floor to area ratio or 23 or 2500 square feet of floor area as defined in section 3.3. In this particular case with the small lots the standard restriction would allow only the -- either the 2300, 2500 that Greg mentioned of square floor area per lot. The planning commission decided to restrict the land to .4 to 1 floor to area ratio. We are asking the council to reconsider the planning commission recommendation and which allows only a .4 to 1 floor to area ratio. Again, if the restriction is removed, then either lot would be able to build only 2300 square feet of floor area. These Austin housing finance corporations would not be abusing the neighborhood and would not be out of step with the surrounding residences. Thank you very much.

[Buzzer sounds]

>> Tovo: Thank you, Mr. Gonzalez. Our next speaker is Greg Mcdaniel. And Mr. Mcdaniel, you will be followed by Susan Mcdaniel or Susan Garza.

>> That's my wife.

>> Tovo: Thank you.

>> Thank you, council. I appreciate the opportunity to step up here. As you can see it is a very small property. Nobody is looking to build anything of any size. We would just like to be able to when we Evan actually do take down these houses, and they are hold, we would like to be able to build back the same amount of square footage that's there. Currently my home is a little over 950 feet.

[4:35:37 PM]

It's very meager by any stretch of the imagination. So therefore I'm not really affected so much by the .4, however my brother-in-law, Joe, he has a home there and if he's hold back to the .4 he's going to

have to make a very small home. I would like to recommend to the council that they allow us to build back either my home to the minimum or the maximum, whichever that might be, the 2300 feet. And when Joe has the opportunity to build his home back, that he be allowed to build back the same amount of square footage that he has at this time. Thank you for your time.

>> Tovo: Thank you. Questions? All right. Our last speaker on this item is Jesusa Mcdaniel. Welcome.

>> Hello, speaker and councilmembers. My name is Jesusa Mcdaniel and this little house was a gift from my mother to my brother and myself, and this is what I would like to leave my daughter. And this is what my brother would like to leave to his daughter, but the best way that we can do this is if we split the property so that there will not be any -- we don't want any problems for our children. Like wondering, okay, who -- how are we going to divide the property? We want to figure this out and be the ones that handle the problems now to be able to split the property so that each child will be able to have their own property so that they can pass it on to their children if they choose to. That's all we're asking for is what we have to be able to give it to our own children when their time comes.

[4:37:45 PM]

Thank you.

>> Renteria: I'd like to ask a question. When you and the contact team met and y'all agreed on the subdivision two lots, is that correct?

>> It was a duplex.

>> Renteria: Did they tell you that they were going to take it to the planning commission and recommend the 4.4?

>> No, sir. I didn't know anything about it until Mr. Gonzalez told us about it.

>> Renteria: Okay. Thank you.

>> Tovo: Mr. Guernsey, did you have information to add on that front?

>> Yes, mayor pro tem and council. In the backup material there's a letter from Susana Almanza, the president of the montopolis neighborhood contact team. It says the neighborhood planning contact team met on February 19th to discuss the case. There's a long discussion regarding zoning change. The montopolis residents are very concerned about the gentrification housing being developed and possibly the last affordable housing in east Austin. The contact team was concerned about condos being built on the site. And after discussion with Victoria and my staff in reviewing the requirements, they should only be allowed two units on the lot. They recommended approval of the zoning change. They did not specify any limitation on the mcmansion to .4 in the letter they gave my staff.

>> Tovo: Councilmember Renteria.

>> Renteria: I would like to make a motion that we approve the staff recommendation without the limitation of the .4.

>> Zimmerman: I'd like to second that. Just for clarification, is that under part 3, the sentence under part 3 of the ordinance where it says development of the property may not exceed floor to area ratio of four to one?

>> Renteria: Yes.

>> Tovo: Councilmember Renteria moves approval of staff recommendation without the .4 far reinstruction that was placed on it at planning commission.

[4:39:48 PM]

Councilmember Zimmerman seconds that. Is there a discussion of the motion? All in favor? And this is on three readings, councilmember Renteria?

>> Renteria: Yes.



>> Tovo: And closing the public hearing?

>> Renteria: Yes, close.

>> Tovo: All in favor? It is unanimous on the dais with mayor Adler off the dais. Thank you, Mr. Guernsey.

>> Thank you, mayor pro tem and council. That concludes your zoning changes for today.

[Laughter].

>> Tovo: Thank you, Mr. Guernsey. Our last item of the night is item 23, and this is -- excuse me, item 23, and I welcome our housing staff to the podium to conduct our public hearing and consider input on community needs concerning the city's fiscal-- did I say the wrong number again? This is item 32 to conduct a public hearing on our community action plan. Welcome.

>> Thank you very much. Rebecca Gelo, director of community housing and development office. We felt that it would be ideal to provide you a very short presentation, due to the fact that this would be several of your first action plan process, the consideration that you will make later in the early summer to approve what essentially is the application for four formula grants to the U.S. Department of hud and urban development, which is hud. Housing and urban development, forgive me. So we will -- we will keep this very brief. The neighborhood housing and community development mission is to provide housing, community development and small business development services to benefit eligible residents for access to liveable neighborhoods and increase their opportunities for self sufficiency.

[4:41:58 PM]

So in that there are several programs and activities the department does provide. We're here today to discuss the action plan. And the action plan is essentially the grant application for four what are called entitlement grants or formula based grants provided to the city of Austin as a participating jurisdiction for a myriad of programs and activities. The annual action plan actually outlines activities and resources that will be used to address the needs of low income to moderate income families. And we actually do this each year as a revisit of the five-year consolidated plan. The consolidated plan is actually an overall investment strategy of five years, and the action plan is actually each year we come in with a very concise investment plan of how those annual allocations will be made. I want to stress just before we move through these very few slides that you are not actually considering the plan tonight. This is a public hearing that is on the community needs assessment. And so what you have is a number of individuals coming in front of you to talk about what the community needs are as it relates to eligible uses of these funds. We will be bringing you back the draft plan later on in the early summer. The community needs assessment process is a 30-day process. Once we actually develop the draft action plan based on the community needs, community input, that draft actually goes out for another 30 day vetting process to the public. The federal funds that we are talking about today is community development block grant funds, home investment partnership program, housing opportunities for persons with AIDS and the emergency solutions grant.

[4:44:02 PM]

Each of these four programs have specific uses. Just to give you a very brief overview of what the funds do look like for anticipated fiscal year 16, hud actually provides us the program year anticipated funds that we know ahead of time and that allows us actually to utilize our planning process and then allocate those funds with our fiscal year funding. So as you can see the program year funds hud has already given us, that is community development black grant or cdbg, a little over seven million home investment partnership funds, 2.4 hopwa, 1.1, and then the esg. Hopwa and esg are actually administered by the health department so those funds we have been notified by hud are anticipated and those will actually

be a part of our budget conversation with you all this summer. A little bit about the actual allocation and the program layout. We had on our website and all of our brochures basically some prioritization program areas and you see that based on a number of years ago we actually wanted to plan our outreach and our strategies around if you were to come to our department, if you were to actually look at funding opportunities and program opportunities, you would be -- it would be very intuitive to you. If you are a developer, a homeowner, a renter. And so all of those programs actually are identified underneath those program category areas. Took the department quite some time, but everything from our accounting all the way to our outreach now is laid out in that very logical manner. So I hope and I believe and we certainly refine as needed the actual intuitiveness of ensuring that our programs do make sense to the public.

[4:46:08 PM]

This is a timeline. Our timeline actually, we're in the process of the community needs assessment. Again you will hear from the public today on a number of different issues that they've come forward to discuss with you. And then we will come back to you actually with our draft. We will distribute that, have another public hearing with you. And then we will bring that back for your consideration. The due date for essentially what is a grant application for these four formula grants is due to HUD no later than August 15th. So we take that date and then we back up all the required activities to ensure a needs assessment, community outreach that meets our citizen participation plan and to ensure that we meet the deadline by HUD mid August. We have a number of different ways that you can contact us by email, mail, online. Certainly our phone number. And we're always happy to come to neighborhood associations and a number of different events. We heavily utilize the community development commission who as you all know you appoint a number of individuals from low income communities to serve on that commission and they remain avid partners with us to ensure outreach in a number of the different neighborhoods. We're also working with each of our offices to identify a constituent liaison. Someone in your office that can help ensure that we are utilizing your outreach protocols and processes. And we remain open to that as you all refine what that looks like, we would like to ensure we're working with you in the way that's most effective with you and your offices. Too long all that I've got. At this time, Mayor pro tem, there are a number of people signed up to speak so I'm happy to be available should there be questions.

>> Tovo: Sure. I'd like to suggest that we move to our speakers and then our staff will be available for questions afterward if we have them.

[4:48:11 PM]

We have seven speakers. Our first speaker is Mr. Hersh and our next speaker after that will be Enrique Rivera.

>> Mayor pro tem and members of the council, my name is Stewart Harry Hersh and like most in Austin I rent and my presentation to you is based on the best recommendations of my best bosses at the city for 30 years, which is Kiss. And Ms. Houston always scuse us to explain what those acronyms mean. In my case it's keep it simple, Stewart. There are four basic things that I think would drive our success next year if adopted. 100 is 100 replacement homes for Onion Creek homeowners who may want to remain in the city. They don't have many opportunities based on market housing. That's something we need to look at. Three million dollars for general obligation repair program. This serves very low income homeowners. Who are trying to stay in their house. They either need property maintenance work or architectural barrier removal if they are seniors. And we haven't funded at that level, but to get rid of the waiting list we need to do that. A thousand new or rehabilitated units in the rental market for 50

and 30% median family income families with 100 of those being housing first and recognition of the great need of our homeless population who is hard to serve. And fourth, adoption of a good landlord program to promote both safety and housing affordability. We have a lot of potential partners if we do a good program. My bosses always said that don't propose something unless you pay for it. And this year that pay for it context occurs while trying to increase the amount of homestead exemption. So I have six suggestions. Hope I don't run out of time. One, you need to merge the new review and inspection department with code to create a resource pool to do that. And then you need to flatten the organization to have more line employees doing review permit inspections and code enforcement and fewer bosses because I used to manage that as a middle manager and now it takes department heads to do it.

[4:50:19 PM]

I don't know where this stupidity went. You need to flatten the organization. You need to replace aging SUV's with small pickup trucks like we used to. We used to be able to get around Austin in pickups. I don't think you need an SUV. We need to align the code interpretation among all the code interpretations among all the employees in this new merged department so you don't get different answers from different people depending upon which department you go talk to. You need to free me \$3 million out of the code enforcement fees we collect each month from our utility bills to pay for the good program as I mentioned earlier and then you need to free resources for the good landlord programs because we have some landlords who I believe want to serve very low income people and the homeless and they need to make some repairs do that. We can pull those things together and have synergy instead of conflict all the time. And I think this council's prepared to do things that we haven't done in the past. We actually did this in the 70's and early 80's in the building inspection department. [Buzzer sounds] So sometimes it's about moving back to what we used to do better, not always looking to Portland and Seattle. Thank you very much.

>> Tovo: Thank you, Mr. Hersh. Ms. Gallo has a question. Do you have a question for Mr. Hersh? Or a comment?

>> Gallo: Just really more of a thank you. I think as we talk about -- we mentioned a little bit earlier that over 50% of the residents in Austin are renters. And as we talk about really listening to those voices, I really appreciate you coming before us both as part of that 50% that rents, but also with a really great history of working with the city and in the building and permitting process. So you're a great voice on both of those two aspects. So thank you.

>> Thank you. Thank you very much.

>> Tovo: Mr. Rivera. And next will be Kathie stark.

>> Hi, my name is Enrique Rivera and I'm with the Salvation Army.

[4:52:20 PM]

I have some some handouts if it's appropriate to go ahead. I'm here today to speak to you about the tenant based rental assistance partnership. The rental based rental assistance partnership is -- it's been in existence since 1970 -- 1998. It's a partnership between the housing authority, city of Austin, and the passages program. The passages program is a comprehensive case management program that seeks to move people from homelessness into housing. And this source of funding which provides basically transitional housing for a point of a time of the year is very important in us moving many families and individuals out of shelters into housing. The program traditionally has basically has served in the area of 300 people annually in the past reporting year, which is October through September. It served 303 people, with 62% of those individuals being served being children. The passages collaboration, what it

seeks to do is go ahead and surround the people who we're serving with as funding with supportive services to help them continue to move toward self sufficiency. We're able to provide comprehensive case management for 18 months, subsidized child care for those who need it, limited assistance, life skills training, employment assistance, referrals to rapid housing and other permanent housing opportunities. The tvra program is funded through home funds with use of home housing trust funds as well. Approximately every year we have 78 to 80% of the people who participate in it move on into permanent housing. And during that year basically we're working with these families and individuals to increase their income so that when they exit -- when the voucher ends that they're in a better position to be able to afford the housing themselves.

[4:54:35 PM]

You had budget listed there for you. That's basically what I have come here to speak with you about today. It's a very important program. Serves a great number of people annually. And I believe that it's a very -- it's an important part of the continuum we've created here in Austin. I'd also like to go ahead and thank the city for the past support obviously since 1998, that its granted towards the program and we look forward to hopefully working with the program in the future.

>> Tovo: Thank you. Ms. Stark? Excuse me, councilmember Zimmerman has a question for you.

>> Zimmerman:.

>> Zimmerman: Mayor pro tem tovo, thank you. Before you go, the language of the stuff always bothered me. You mentioned permanent housing. I've lived in my current house for over 15 years, so maybe that's permanent, but as soon as I can't pay for it, I'll be evicted and it's not permanent anymore. I struggle with the language of stuff that comes up. What does that mean, permanent housing? I don't think there is any such thing.

>> Sure. I understand your question. Permanent housing as it's defined and how the program is rated, looks at whether a family or an individual is able to go ahead and continue to be housed on their own at least six months from the program exit date. Or from the move into permanent housing rather than the transitional housing, which is what tvra is. What we seek to do is go ahead and improve the financial situation of the participant to the point where they can better afford a place to live on their own. I understand your question, of course.

>> Zimmerman: So permanent is six months -- I didn't quite understand the answer.

>> Okay. As it's rated or as we're evaluated, it's six months from the date they attain a permanent housing status, which means they are not receiving a housing subsidy or they're not receiving this subsidy or a time limited subsidy that would end at a certain point in time.

[4:56:52 PM]

That can include section 8 housing of permanent housing. It can include public housing which can go longer term, moving into their own place without a subsidy, moving in with family permanently as well. But sometimes that's the most appropriate thing.

>> Zimmerman: So permanent really means no longer in that particular form of subsidy or help. You're helping them temporarily and they get out of the temporary situation into something that's not temporary.

>> Correct.

>> Zimmerman: So permanent means not temporary, not permanent. I got it now, thank you.

>> U.t. Thank you.

>> Tovo: Okay. Kathie stark. Next is Rosa Gonzalez

[indiscernible].

>> Good afternoon. My name is Kathie Stark, I'm the executive director of the Austin tenants' council. We do landlord-tenant issues and we also do foster housing enforcement and education, non-discrimination and housing. First thing is housing. We need more housing. As you all know well over 50% of the people that live in Austin are renters. We need all kinds of housing. We need affordable housing on the northside, the northwest side. We need affordable housing in all areas of town. The city of Austin has funded the Austin tenants' council to run a rental repair program and that program is pretty much unique in Texas. What it does is it assists low income tenants in getting repairs done to their home. Those repairs are completed by the landlord. We assist those tenants in the process of getting those repairs done. Successful outcome to us is all the repairs are made and that property does not go substandard. So that is one of the things I'm requesting funding for. The other thing is as we build affordable housing, I'd like to see that any funds that go to the city or the city waivers, that the housing that is produced has some caveats in it, and one of the caveats is that has to have a reasonable look back period.

[4:59:03 PM]

What that means is they can't have a policy on criminal background is that if you've ever been arrested we can't rent to you. It has to be a reasonable look back policy, that you were arrested, it was a felony, but it's been five years, you've been gainfully employed, it hasn't been any trouble, so you should be able to find housing in the city. So the city when it's building housing could have that in place saying you have to have a reasonable look-back period. I think that that would go a long way to helping find housing for people that are hard to house at this point. A lot of the people that are homeless have a hard time finding housing because of, you know, the records that they have during the time that they're homeless. So this would help move people through the process in housing that the city supports. I guess housing we just need housing. I can't tell you how high the rents are out there. I think you've heard in the zoning cases what some of the properties, 600 square feet are going for. I appreciate you listening to me. Thank you very much.

>> Tovo: Thank you, Ms. Stark. Next is Rosa Gonzalez Abrego?

>> She had to leave.

>> Tovo: Thank you. Mr. Cloutman, you're next. And you will be followed by Laura Olson. >>

>> Thank you, Mayor pro tem. Charles Lotman here with meals on wheels and more and chair of the Austin housing coalition. I'm here to first of all thank you for your previous funding, past funding for the go repair program, which Stewart was talking about. They've repaired hundreds of thousands within this city and keeping people, he would be elderly and disabled in their house and let them age in place. Thank you for the bottom of my heart to know these people and know that they're safe and secure and their houses don't leak and a thunderstorm comes in and they're not fearful.

[5:01:03 PM]

So we appreciate that. We ask for further funding, three million dollars has been asked every year. We've yet to have been funded at our level that we can run with. Every one of the agencies, the six agencies utilizing this funding has waiting lists. It seems to be counterintuitive to let that continue. The community development commission recommends every year for three million dollars and yet it falls on other ears. So I've asked for that funding. We also -- also on a personal note I would like to say after the Onion Creek floods, we must provide some sort of help for the people that are coming out of Onion Creek. We're buying them out and there's no place to put them. Unless we want them to go to Buda, Kyle, Manor, some other place, but if we want to keep them where they belong in their homes and schools and their churches and their communities, we must help them relocate. So I'm not sure that

that's not my bailiwick, it's not my area of influence, but it's something that we need to do and -- because I'm close to that, I see that and I ask you to fund that and to help that and secure that. This is a needs assessment and that's a need. And third and last, because I am a commissioner on the building and standards commission, we are constantly faced with rental housing that is substandard. And when we force the current landlord to repair these houses, he ends up selling the house and it becomes market rate. If you want to see Riverside corridor become market rate, do nothing. But if you want to stop that and if you want to be able to help people stay in their homes and help a landlord that is cash strapped, you can fix the place with an affordability rider to the property, create a fund, a strike fund that will administer through housing that will allow this landlord to borrow the money, to fix the property, to keep people in there with a covenant with the city, 25 year, 15 year, whatever the housing department recommends.

[5:03:11 PM]

It's not my world. But we must do something. We can't allow this to continue to happen. If we do nothing it will happen. We are throwing the book at the bad players. Somebody needs to catch the poor bystanders getting hurt in the meantime. It's not fair to let them live in substandard housing.

[Buzzer sounds] So thank you.

>> Tovo: Thank you, Mr. Cloutman and thank you for your last point especially. I think it's very critical as we step up our enforcement of substandard housing it needs to be paired with programs to help those property owners who want to. I think that's one of the things that has been a priority and creating a strike fund and following up on some of those other affordable housing preservation strategies is a high priority of mine. I'm sure we have others on the council who are supportive of that effort. Thanks for all your work.

>> Thank you.

>> Tovo: Ms. Olson. Laura Olson, are you still in the chambers? Okay. Our last speaker of the night is Ann Howard. >>

>> My name is Ann Howard, the executive director of the ending community homelessness coalition. And the -- we want to support what's been the use of the federal dollars in this community. That's really focusing on housing and housing for the poorest among us. I think that hud is doing a pretty good job actually at challenging the local community to quilt these funds together to make sure that we have a rather seamless continuum. As the homeless representative here, I need you to drive this funding to the lowest economic level to folks that we can rehouse who maybe have zero income, and we know that in the right supportive environment we can get that income up so they can maintain their own housing.

[5:05:15 PM]

The esg stands for emergency solutions grant. It used to focus just on shelter, but now hud is focusing short of repurposing that money to focus on permanent housing. Mr. Zimmerman, the concept of permanent in this -- you will hear it a lot from me because what we're moving away from is transitional, where the person only has six months, 12 months, 18 months to address all their issues. When it's permanent it's lease based. They need to abide by the lease. The rent needs to be paid. And as long as that happens they get to stay, just like other renters in town. And so as we develop more permanent housing for folks at the lowest income level, we have numerous programs from the local, state and federal and private philanthropy to make sure we can help them then attain the income to maintain that housing. So we're all -- it's really fun actually to hear these other colleagues step up here and tell you what they think because I think we would all clap for each other. We have worked so closely over the last three years to try to get all of these policies lining up so that we can maximize the use. Of every

dollar. We appreciate mayor pro tem. We spent hours at the state capitol Monday or Tuesday night to speak out on this -- on behalf of the city for the source of income protection. There's just so many policies at play that I think if we keep trying to bring them all together you're going to see -- you're going to see the right results for this community in the coming months and years. Thank you.

>> Tovo: Councilmember Zimmerman has a question for you, Ms. Howard.

>> Zimmerman: Thank you for that.

[5:07:15 PM]

Before you go, I've got to make a couple of notes. First, the federal government is pretty much bankrupt, okay? \$18 trillion in debt. And when people say there's hud money out there, they're talking about the piggy banks of our great grandchildren that haven't been plundered yet. It is very serious what's happening at the federal approximate level. \$18 trillion. It is so staggering people can't wrap their head around it. And yet we keep talking about hud money like it's just going to be picked off a tree and the hud money is going to be there. And people are making plans. Now and in the future for money that doesn't exist to be there in perpetuity. So I have a huge problem with that. It's a struggle. And the second thing is nobody wants homeless people in the city, nobody. Nobody wants homeless people in the city. And yet every time we have these subsidies and we try to get people off the street and put roofs over their head, somebody has to pay. And every time this happens, and we spend more and more to put roofs over people's head, the people that aren't subsidized feel the squeeze, okay? And it's a gradual process, right? It doesn't happen overnight. But this 18 trillion in debt and the squeeze that's being felt by the people that aren't subsidized in Austin, this is a very real thing that I never hear acknowledged. So I have to bring that up. So thank you for listening.

>> Sure. Can I comment?

>> Tovo: Yes, please do, Ms. Howard.

>> One thing that we will be demonstrating over and over again is that to do nothing costs this community. Not only do we -- are we losing valuable citizens because of poor healthcare and lack of affordable housing, but as a community we're paying for that. We see folks in the emergency room and in jail and in our shelters over and over again because we don't intervene to help them change the course of that behavior.

[5:09:24 PM]

We know when they are housed we save money as a community. So I like to look at it as it's right and it's smart to do this. I've lived in Washington, D.C., I understand the federal government. And as long as it's the law of the land and the policy under which this, you know, great country operates, Austin needs to take advantage of it and use every penny we can get. That's how I see it.

>> Tovo: Thank you very much, Ms. Howard. Does anyone have any other questions for our staff? Yes, councilmember Garza and then councilmember kitchen.

>> Garza:. Thank you for this presentation. I wasn't aware of what this program did. So my questions were as far as -- so once you do all this -- at this public hearing and -- I'm sorry if you said this and I missed it. And you do the community outreach, you come back to council with this is how we're going to use this money and we approve that. Is that how it works?

>> Is that correct. What we will do is take 30 days to collect input. We will base that on a number of different mediums to include a data analysis. That is a required component as well. And then we will bring back the draft for your approval. When it comes back to you for approval, it also has been out to the public for 30 days. So when you see it, you actually will be seeing a document that has been viewed by the public for a month. And in that month we may have refined it based on input as well.

>> Garza: Okay. And then I was looking at the slide that has the input, will form the draft action plan. And it has these boxes down here.

>> Yes, ma'am.

>> Garza: Because I love the ideas of somehow helping our buyout families from onion creek.

[5:11:26 PM]

Generally my question is that a feasible thing? Because I'm -- a lot of those families are families that are kind of in that missing middle that probably wouldn't qualify for any kind of subsidized homes. Their families that make just enough above. So are most of those families -- are most of the programs meant for people who qualify for like some kind of subsidized housing?

>> A point of just making sure I understand. When you say a little bit above, are you saying 80% median family income, a little above that when you say that?

>> I'm just saying that they would never qualify for any -- they're that middle that -- like Austin is getting too expensive, but they won't qualify for any kind of --

>> Right. And the reason why I asked for the clarification on the median family income is because I do believe -- there's a couple of answers to your question. Yes, the input is meaningful in that it could lead to additional funds, for example, being allocated to the housing developer assistance program.

Particularly the acquisition and development program that would allow for additional funds for home ownership opportunity. So that's one way that that could be an avenue. Another would be that we could look at down payment assistance, also federally funded, that would allow for up to \$40,000 of down payment assistance for individuals who would like to be a homeowner, but just have a very small gap in order to achieve that. The other thing that we would want to look at is the planned unit development conversations that are happening right now. It's not just through subsidy that we need to achieve that particular issue. It's through the different innovative regulations and opportunities that the city is creating that we can get individuals that missing middle income into housing opportunities. And that's something that we're going to be obviously talking to the housing committee, our committee about and certainly wanting to share that with more councilmembers.

[5:13:33 PM]

All of those opportunities around those regulations. One of the things particularly in the planned unit development is we are in the process based on a previous council resolution to take a look at on-site requirements versus a fee in lieu and bring back options that the city council can consider that remove the option of a fee in lieu but for potential exceptions. And through those types of innovative regulations I believe we can get to some of the goals and aspirations. Mr. Hersh indicated as well as you're asking about.

>> Garza: Okay. One more question. Do any of these programs that this money funds -- I couldn't find it in here -- go to actually building a home? It looks like it goes to the down payment assistance and -- but does it actually -- are actual homes built with this money?

>> Yes. And we call that the acquisition and development. So in the housing development assistance program, there's actually two avenues for those funds, the rental housing developer assistance program and the acquisition and development. The acquisition and development is actually where we are funding homes. And we do that through subrecipients, a competitive process application process. So for example, habitat for humanity. And then the Austin housing finance corporation also owns some land where the actual Austin housing finance corporation would build homes as well.

>> Garza: Okay. Thank you.

>> Tovo: Councilmember kitchen.



>> Kitchen: I just wanted you to take a minute and elaborate on how you're reaching out to the community because I'm thinking all of us are in our districts on a regular basis and thinking that there might be ways in which we can help you with the outreach. It looked to me like there were two periods of opportunity for input, both on the community needs assessment part as well as commenting on the plan itself.

>> Yes, ma'am. We have -- well, first I want to say we are always open to building on what we are already doing and recalibrating.

[5:15:41 PM]

We recognize that community outreach, particularly in a number of different neighborhoods, needs to look different in order to be effective. We do do presentations at neighborhood association meetings and any other meeting. In fact, we had a -- we will go anywhere. We had a group ask us to come to their Sunday school class. That was actually something that we needed to vet in order to ensure that we could go to a Sunday school class. We've never said no, we will not come, and we're seeing everything from pta's to Sunday school classes, neighborhood associations and different organizations like that. We recognize also the value of utilizing electronic mediums. We definitely value the community action network, for example, that has a very significant distribution in their news letters and other non-profit partnering agencies that help us distribute the information. We are very interested in making relationships with the right folks in your office because we recognize that the constituent base you're trying to reach is the constituent base we need to be sure that we're leveraging with. And so that's actually a new opportunity for us. When we looked at the district mechanism, that for us around affordable housing was very appealing because it almost creates separate and individual unique market bases for us, but I do believe that there is a partnership that is new and exciting and one that we've not necessarily built that more than just our department and housing would like to engage on just how best to leverage what you all are creating in your individual offices. To answer your question more, we are working with the communications and public information office. We're excited about the engagement taskforce to listen to those ideas. I wouldn't say what we're doing today is what we'll be doing, you know, in the next six months. We're looking for those new exciting opportunities as well.

[5:17:45 PM]

We do have a take action five different ways flyer which lists different opportunities and ways you can reach us. One of the things that codenext offered us is an engagement strategy around meeting in a box. So creating the tools and the feedback mechanisms to hand off to small groups that make it easy for them to reply back and prioritize, give us the feedback that we're looking for. So rereplicate where we see different traction around opportunities that have made sense, that have been successful. But I don't anticipate that we'll ever stop -- we'll ever stop and think that what we're doing today will make sense for next year. We're always looking for new ideas and new ways to doing it. We do also realize that there's two different questions when we go into the action plan process. There is low income community, what has been useful for you, and potentially different community that might be deemed low income. These are your federal dollars coupling to your community. How do you want to see them expended? Do you want to see them expended? How do you want? So there are different questions depending on who we are speaking to and we want to be sure when we speak to the audience that it's the right question.

>> Kitchen: Okay. Thank you.

>> Tovo: Councilmember Houston.

>> Houston: Thank you so very much. Not only are there different ways to communicate with different

populations, but also time lines. How strict is your 30-daytime line?

>> It is not necessarily that if after 30 days it shuts down and we will not be able to take your comment into consideration. You will often see if, for example, after 30 days we've received comment, we will take that into consideration. What really becomes most imperative is when we bring it forward in August for your final approval. So there's two answers to your question.

[5:19:47 PM]

Councilmember, I want to be sure I'm true to the spirit. When we put it out for public vetting in the 30 days, we would like to ensure that it represents what we heard from the community because that's what everyone is going to be viewing. So it not that we wouldn't include it or still consider it, but we do believe that in the spirit of transparency that we would want to see all that feedback as much as possible reflected in our draft.

>> And see, people who have similar kinds of houses and similar kinds of cognitive things, they could do that in 30 days?

>> Right.

>> Houston: There are some communities that they need more than 30 days to even get the concept. And when you talk about using something in a box that means somebody has to be volunteered to learn how to facilitate that. And so you're basing all of your feedback on a level of cognitive and educational ability that some people don't have. So that's why I'm asking is there a reason to -- do we have to have the 30 days or is that federal law by state statute or city ordinance? Or can we say 45 days because in the black community if you don't get people on the first Sunday when they go for communion, then you miss them and so they don't get to hear that in church.

>> Understood.

>> So I'm trying to help you understand that for some communities 30 days is fine and no problem. But you won't get the breadth and the wealth of information because some people it takes them three weeks to figure out this is something I need to tend to and then it's too late.

>> Understood. No, I appreciate all that. I want to be sure that you all recognize our process is -- first of all let me quickly say 30 days minimum. We are not shutting community input out if we receive it after 30 days. It's important for us to be sure folks know within 30 days we're going to take all that information so that our draft investment strategy reflects what we've heard.

[5:21:53 PM]

One of the things that guides our outreach overall is what's called a citizen participation plan and that is something that actually requires every community to develop with their stakeholders. The stakeholders have indicated minimum 30 days. But absolutely if we receive it after 30 days, we're going to do -- we're going to take that into consideration as well. We will bring back the document for your consideration with the feedback that we have received.

>> But when you say 30 days, that's what I hear. They need to receive it and respond in 30 days. They don't hear, well, you will receive it after that. So I hear what you're saying, but I'm not sure you hear what I'm saying.

>> No, I do hear what you're saying, rest assured. Let me get a little bit more clarification. In exactly what we would do with feedback that we would receive after, for example, we put the draft out. The most important thing is that the draft reflect public input. And that is something that we really want. We don't want to put a draft out for 30-day vetting and then a piece of correspondence that would significantly change an investment proposal in a particular program. At the same time I wouldn't want to say because we received something on the 35th day we wouldn't take it into consideration. But I will to

the degree that we can provide utmost clarity, I will absolutely do so.

>> Tovo: Councilmember Renteria.

>> Renteria: Rebecca, I think it would also help that we have the community development commission, which here is -- hears all this and takes all the feedback from the stakeholders all year-round. So it's not just a process that we just do 30 days and that's the deadline. It's a continuous process that keeps -- and the commission is always getting its information.

[5:23:55 PM]

So it's not just -- it's not based on time limit, but there's always input coming in from the community. And through my understanding when I was on there we always -- we used to go to different centers and get different feedback and then we would have a yearly one that we would have in the city council where people could come in and give their feedback also. So it's -- it's a year-round process. It's not just -- it has to go through the process every year because the federal government requires that because of the funding that they're going to give us and they want the stakeholders to have an input on it.

>> Tovo: Thank you, councilmember. And I would say that I did request that our neighborhoods and planning discuss this issue of density bonuses and transforming or at least considering transforming our other density bonus from fees in lieu to site-based requirements. So it would be great to get an up you date on where we are with the planned unit development process and consideration at the same time.

>> That would be ideal. We are happy to do that.

>> Tovo: We'll make sure we're communicating with you. Well, council, we have no other business before us, and so without further adieu, I will conclude this meeting of the -- thank you. Is there a motion to close the public hearing on this item? Councilmember Zimmerman closes the public hearing -- councilmember pool seconds it. All in favor? It's unanimous on the dais with mayor Adler off the dais. And now we have no further business.

>> Zimmerman: Motion to adjourn.

>> Tovo: So without further adieu, I will call this meeting of the Austin city council -- we'll adjourn this meeting of the Austin city council. We stand adjourned at 5:25. Thank you.